



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

May 10, 2019

OFFICE OF  
AIR AND RADIATION

Mr. Austin R. Evers  
American Oversight  
1030 15<sup>th</sup> Street, Suite B255  
Washington, D.C. 20005

Re: Freedom of Information Act Request No. EPA-HQ-2019-003517

Dear Mr. Evers:

This is the final response to your Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on February 14, 2019. You requested the following: *"All email communications sent by (1) former Administrator Pruitt, Acting Administrator Wheeler, Office of Policy Associate Administrator Brittany Bolen, Office of Air and Radiation (OAR) Assistant Administrator William Wehrum, OAR Deputy Assistant Administrator Clint Woods, OAR Senior Policy Advisor Mandy Gunasekara, and/or Office of Transportation and Air Quality Director Christopher Grundler; to (2) any email address ending in .com, .org, .edu, .net, .mail, or .biz, including emails in which such addresses were copied (cc) or blind copied (bcc)."*

The Office of Air and Radiation has concluded its search for records responsive to your request and has determined that your request is partially granted and partially denied. The Agency released 175 pages of responsive records through FOIAonline. Portions of documents were withheld pursuant to 5 U.S.C. § 552 (b)(6) because it contains personal information which would be an unwarranted invasion of privacy if released. There is no cost for the processing of this request.

This letter concludes our response to your request. You may appeal this response by email at [hq.foia@epa.gov](mailto:hq.foia@epa.gov), or by mail to:

National FOIA Office  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W. (2310A)  
Washington, D.C. 20460

Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, NW, William Jefferson Clinton North Building, Room 5315, Washington, DC 20460.

Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals *received* after the 90-calendar-day limit. Appeals received after 5:00 pm EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal."

Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: email, [ogis@nara.gov](mailto:ogis@nara.gov); telephone, (202) 741-5770 or (877) 684-6448; facsimile (202) 741-5769; or by mail at:

Office of Government Information Services  
National Archives and Records Administration, Room 2510  
8610 Adelphi Road, College Park, MD 20740-6001

We appreciate your interest in the EPA and our mission to protect public health and the environment. Should you choose to appeal this determination, please be sure to fully address all factors required by EPA's FOIA Regulations, located at 40 C.F.R., Part 2.104.

Sincerely,



John Shoaff

Director

Office of Air Policy and Program Support

Appointment

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**From:** Kime, Robin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7EF7B76087A6475B80FC984AC2DD4497-RKIME]  
**Sent:** 8/14/2017 2:25:29 PM  
**To:** Inge, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7f763e42702a4f468cdf42323ee94520-Cinge]; Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; Dravis, Samantha [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ece53f0610054e669d9dffe0b3a842df-Dravis, Sam]; 'Paul Balserak' [pbalserak@steel.org]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]  
**Subject:** Follow-up Meeting with Iron & Steel re: NSR  
**Location:** DCRoomARN3500/OPEI  
**Start:** 8/21/2017 7:30:00 PM  
**End:** 8/21/2017 8:30:00 PM  
**Show Time As:** Busy

Directions: Please use the William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station. Please arrive 10 minutes prior to the meeting with photo IDs to clear Security.

EPA Contact: For an escort from Security to the meeting call (202) 564-4332; for all other matters call Robin Kime (202) 564-6587.

Objective: Discuss the NSR program.

Contact:

Paul Balserak

Vice President, Environment

American Iron and Steel Institute

25 Massachusetts Ave. NW, Suite 800

Washington, DC 20001

**Ex. 6** office)

**Ex. 6** (mobile)



Appointment

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**From:** Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]  
**Sent:** 10/22/2018 1:17:13 PM  
**To:** Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]; Cook, Leila [cook.leila@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Charmley, William [charmley.william@epa.gov]; Moran, Robin [moran.robin@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]  
**Subject:** Meeting with National coalition for Advanced Transportation re: SAFE (CONFIRMED)  
**Attachments:** CONFIRMED RE: Request for Meeting on Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26  
**Location:** WJC - N 5400 + Video with AA + Conference phone and code / Ex. 6  
**Start:** 10/24/2018 7:00:00 PM  
**End:** 10/24/2018 8:00:00 PM  
**Show Time As:** Busy



CONFIRMED RE:  
Request for Meet...

## Message

**From:** Rakosnik, Delaney [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=274573739A9F446883072599086EDED-RAKOSNIK, D]  
**Sent:** 10/16/2018 7:37:31 PM  
**To:** Robert.Wyman@LW.com [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3386628dfac1492691741359d34f7fcf-Robert.Wyman@LW.com]  
**CC:** Devin.O'Connor@lw.com; Stacey.VanBelleghem@lw.com; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]  
**Subject:** CONFIRMED RE: Request for Meeting on Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26

Dear Bob,

You are confirmed for an hour long meeting with Bill Wehrum on 10/24 starting at 3pm.

Directions and procedures to 1200 Pennsylvania Avenue NW:

**Metro:** If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn right. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, North Entrance.

**Taxi:** Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12th Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your right hand side with the escalators going down to the metro on your left - that is the North Lobby of the William Jefferson Clinton building.

**Security Procedures:** A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. If you are a foreign national entering on a non-US passport, please let us know in advance, as there is a separate clearance process.

Upon arrival, let the guards know that you were instructed to call 202-564-7404 for a security escort.

Please send me a list of participants in advance of the meeting and feel free to contact me should you need any additional information.

Many thanks,

Delaney Rakosnik  
 Staff Assistant  
 Immediate Office of the Assistant Administrator  
 Office of Air and Radiation, USEPA  
 Room 5406A, 1200 Pennsylvania Avenue NW  
 Washington, DC 20460  
 Voice: 202-564-2229  
 Email: rakosnik.delaney@epa.gov

## Message

**From:** Simon, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D781D1AD595415DB3A4E768C2D2B3FC-SIMON, KARL]  
**Sent:** 10/26/2018 8:44:16 PM  
**To:** Bond, Alexander [ABond@eei.org]  
**CC:** Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]  
**Subject:** Re: EEI Comments Regarding the proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks (Docket No. EPA-HQ-OAR-2018-0283 and NHTSA-2018-0067)

Thanks Alex. Good to see you the other night. Will find some time soon to chat.

Karl

> On Oct 26, 2018, at 4:36 PM, Bond, Alexander <ABond@eei.org> wrote:  
 >  
 > Chris/Karl -  
 >  
 > FYI here. We'd love to set up time to talk in the coming weeks.  
 >  
 > Alex  
 >  
 >  
 > From: Bond, Alexander  
 > Sent: Friday, October 26, 2018 4:29 PM  
 > To: 'elaine.chao@dot.gov' <elaine.chao@dot.gov>; 'wheeler.andrew@epa.gov' <wheeler.andrew@epa.gov>  
 > Cc: 'wehrum.bill@epa.gov' <wehrum.bill@epa.gov>; 'Heidi.king@dot.gov' <Heidi.king@dot.gov>  
 > Subject: EEI Comments Regarding the proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks (Docket No. EPA-HQ-OAR-2018-0283 and NHTSA-2018-0067)  
 >  
 > Dear Secretary Chao and Acting Administrator Wheeler:  
 >  
 > The Edison Electric Institute (EEI) appreciates the opportunity to provide the attached comments to the National Highway Traffic Safety Administration (NHTSA) and the U.S. Environmental Protection Agency (EPA) (collectively, the Agencies) regarding the proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks (Docket No. EPA-HQ-OAR-2018-0283 and NHTSA-2018-0067) published in the Federal Register on August 24, 2018.  
 >  
 > Thank you!  
 >  
 >  
 > --  
 >  
 > Alex Bond  
 > Associate General Counsel, Energy & Environment  
 > 701 Pennsylvania Avenue, N.W.  
 > Washington, D.C. 20004-2696  
 >  Ex. 6  
 > [www.eei.org](http://www.eei.org)<<http://www.eei.org>>  
 > Follow EEI on Twitter<[http://www.twitter.com/Edison\\_Electric](http://www.twitter.com/Edison_Electric)>,  
 > Facebook<<http://www.facebook.com/pages/Edison-Electric-Institute/253118344285>>, and  
 > YouTube<<http://www.youtube.com/eeitv>>.  
 > [cid:94C01F3C-3F79-431A-97F9-93E58F91EBC6]  
 >  
 > <image001.png>  
 > <EEI Comments Docket Nos. NHTSA-2018-0067 and EPA-HQ-OAR-2018-0283\_FINAL.pdf>  
 > <Appendices\_EEI Comments on SAFE Rule for Electric Vehicles.pdf>

Appointment

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**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 11/2/2018 5:13:06 PM  
**To:** Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Alexander Dominguez (dominguez.alexander@epa.gov) [dominguez.alexander@epa.gov]; Gunning, Paul (Gunning.Paul@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f65040017f05429aa05572f096a50463-PGUNNING]; Fawcett, Allen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c42c443c02834519bd99d9826afccf54-AFAWCETT]  
**Subject:** Call: Composite Panel Association  
**Attachments:** RE: CPA Affordable Clean Energy Rule  
**Location:** 5426 WJCN + **Conference phone and code / Ex. 6**  
**Start:** 11/7/2018 4:00:00 PM  
**End:** 11/7/2018 4:30:00 PM  
**Show Time As:** Busy

To: Mandy Gunasekara, Alex Dominguez, Paul Gunning, Allen Fawcett

**Conference phone and code / Ex. 6**

Mandy will open the line

## Message

**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 11/2/2018 5:12:22 PM  
**To:** David Beaudreau [dbeaudreau@dclrs.com]  
**Subject:** RE: CPA Affordable Clean Energy Rule

Great. Confirmed for a call on Wednesday, November 7<sup>th</sup> at 11:00AM. We can use the conference line below.

**Conference phone and code / Ex. 6**

Anything else let me know.

Alex

**From:** David Beaudreau [mailto:dbeaudreau@dclrs.com]  
**Sent:** Friday, November 2, 2018 10:31 AM  
**To:** Dominguez, Alexander <dominguez.alexander@epa.gov>  
**Subject:** Re: CPA Affordable Clean Energy Rule

Great, let's go with 11:00 a.m. on November 7. Will you send a call in number or do you need me to provide one?

On Fri, Nov 2, 2018 at 9:13 AM Dominguez, Alexander <dominguez.alexander@epa.gov> wrote:

David – Please let me know if any of the times below would work for a call.

Wednesday, Nov 7<sup>th</sup> – 11:00; 4:00

Friday, Nov 9<sup>th</sup> – 3:00; 3:30

Moving Mandy to bcc.

Best,

**Alex Dominguez**

Policy Advisor to the Assistant Administrator

Office of Air and Radiation

U.S. Environmental Protection Agency

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**From:** David Beaudreau [mailto:[dbeaudreau@dclrs.com](mailto:dbeaudreau@dclrs.com)]  
**Sent:** Thursday, November 1, 2018 11:07 AM  
**To:** Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>  
**Cc:** Dominguez, Alexander <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>  
**Subject:** Re: CPA Affordable Clean Energy Rule

Thanks!

Sent from my iPhone

On Oct 31, 2018, at 10:27 PM, Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)> wrote:

Hi David,

Thank you for sending your comments and I'd be happy to discuss. I've ccd Alex Dominguez who can help follow up regarding the logistics.

I look forward to talking soon.

Best,

Mandy

Sent from my iPhone

On Oct 31, 2018, at 8:46 PM, David Beaudreau <[dbeaudreau@dclrs.com](mailto:dbeaudreau@dclrs.com)> wrote:

Hi Mandy,

Hope you're well. I wanted to attach the comments the Composite Panel Association submitted yesterday regarding the ACE rule.

I wanted to use this opportunity to check in with you to see if there are any developments with respect to the carbon neutrality issue. When Jackson Morrill and I met with you a while ago EPA was still determining how to best address the carbon neutrality policy change that had been recently made.

Would you have time for a conference call with me and Jackson for sometime next week?

Thanks for considering this request.

David G. Beaudreau Jr.

Senior Vice President

D.C. Legislative and Regulatory Services, Inc.

2221 S. Clark Street, 11<sup>th</sup> Floor

Arlington, VA 22202

Main: 202-872-8440

Direct: 202-872-6884

[www.dclrs.com](http://www.dclrs.com)

The content image001.jpg of type has been blocked.

<Composite Panel Association Comments.pdf>

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David G. Beaudreau Jr.

Senior Vice President

D.C. Legislative and Regulatory Services, Inc.

2221 S. Clark Street, 11<sup>th</sup> Floor

Arlington, VA 22202

Main: 202-872-8440

Direct: 202-872-6884

[www.dclrs.com](http://www.dclrs.com)



## Appointment

**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 10/29/2018 3:07:45 PM  
**To:** Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Alexander Dominguez (dominguez.alexander@epa.gov) [dominguez.alexander@epa.gov]; Cozzie, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ee8c3582a39d4d81ac38f29a2b3abb2d-DCOZZIE]; Culligan, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ab7ef4a59614fd4b4485668c42818c7-KCULLIGA]; Hutson, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b7e6dc331d174798a3a269070576d896-Hutson, Nick]; Mike Koerber (Koerber.Mike@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c513901d4fd49f9ab101a6f7a7a863e-Koerber, Mike]; Peter Tsirigotis (Tsirigotis.Peter@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c179f3ccb4fadb48e3ae85563f132-PTSIRIGO]; Sarah Dunham (Dunham.Sarah@epa.gov) [Dunham.Sarah@epa.gov]; Harvey, Reid [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f8ec31caad5048db83f210032847de32-RHARVE02]  
**CC:** Kevin Culligan **Personal Email / Ex. 6**  
**BCC:** DCRoomARN5428PolyTB/DC-ARN-OAR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user4e076598]  
**Subject:** Meeting: Duke Energy  
**Attachments:** ACE Meeting Request - Confirmation; RE: Meeting Attendees - Duke Energy; Duke Energy ACE comments overview.pdf; Duke Energy ACE Comments (submitted to docket).pdf; RE: Attendees  
**Location:** 5428 WJCN Conference Room + Conference Line: **Conference line and code**  
**Start:** 11/16/2018 4:30:00 PM  
**End:** 11/16/2018 5:30:00 PM  
**Show Time As:** Busy

To: Mandy Gunasekara, Alexander Dominguez, David Cozzie, Kevin Culligan, Nick Hutson, Mike Koerber, Peter Tsirigotis, Sarah Dunham, Reid Harvey

### Conference line and code

Mandy will open the line

#### In-person

Mike Geers  
 Venu Ghanta  
 Kris Knudsen

#### By phone

Derek Picklesimer  
 Vicky Sullivan

## Message

**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 11/6/2018 5:20:20 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Subject:** ACE Meeting Request - Confirmation

Venu,

Good talking with you and per our conversation you are confirmed for a 60 minute meeting on Friday, November 16<sup>th</sup> at 11:30AM with Mandy Gunasekara.

Please have anyone calling in use:

**Conference phone and code / Ex. 6**

Directions and procedures to 1200 Pennsylvania Avenue NW:

**Metro:** If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn right. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, North Entrance.

**Taxi:** Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12th Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your right hand side with the escalators going down to the metro on your left – that is the North Lobby of the William Jefferson Clinton building.

**Security Procedures:** A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. If you are a foreign national entering on a non-US passport, please let us know in advance, as there is a separate clearance process.

Upon arrival, let the guards know that you were instructed to call 202-578-5985 for a security escort.

Please send me a list of participants and any handouts at least two days in advance of the meeting. Feel free to contact me should you need any additional information.

Best,  
Alex

**Alex Dominguez**  
Policy Advisor to the Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency  
D: 202-564-3164  
M: 202-578-5985

---

**From:** Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
**Sent:** Friday, November 2, 2018 12:42 PM  
**To:** Dominguez, Alexander <dominguez.alexander@epa.gov>  
**Subject:** RE: ACE meeting request

Hi Alex-

We are open on the 16<sup>th</sup> and defer to you as to the best time to meet with Mandy. What works best on your end?

Thanks, Venu

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**From:** Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]  
**Sent:** Monday, October 29, 2018 2:35 PM  
**To:** Ghanta, Venu G  
**Subject:** RE: ACE meeting request

Venu –I just received word Mandy is tentatively in a meeting with AA Wheeler on the 16<sup>th</sup> from 11 – 12:45. I can also move her 1:30 if necessary so her updated availability is realistically 1:30 – 4:00. Hope this helps with logistics.

Alex

Sent from my iPhone

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**From:** Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
**Sent:** Friday, October 26, 2018 7:21 PM  
**To:** Dominguez, Alexander <dominguez.alexander@epa.gov>  
**Subject:** Re: ACE meeting request

Hi Alex-

The 16th looks best for us, but I am still trying to nail down times for the folks traveling from out of town. I'll try to let you know next week.

Thanks and have a great weekend.

-Venu

On Oct 26, 2018, at 2:30 PM, Dominguez, Alexander <dominguez.alexander@epa.gov> wrote:

\*\*\* Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*

Hey Venu,

Happy to set something up. Any dates in particular work best? If not, below is Mandy's current availability. If you need a few days to confirm just let me know if you want me to hold any times as I'm going through quite a few meeting requests this afternoon.

Thursday, November 1<sup>st</sup> 4:00-cob  
Friday, November 2<sup>nd</sup> 12:00 – 1:00  
Wednesday, November 7<sup>th</sup> is pretty open after 9:30am.  
Friday, November 9<sup>th</sup> 11:00 – 1:00  
Friday, November 16<sup>th</sup> 11:00 – 1:30; 3:00 – 4:00

Best,  
Alex

**Alex Dominguez**

Policy Advisor to the Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency  
D: 202-564-3164  
M: 202-578-5985

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**From:** Ghanta, Venu G [<mailto:Venu.Ghanta@duke-energy.com>]  
**Sent:** Thursday, October 25, 2018 11:45 AM  
**To:** Dominguez, Alexander <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>  
**Subject:** ACE meeting request

Hi Alex-

Hope you are doing well. I wanted to check in and see if Mandy would be interested in meeting with Duke Energy to hear our thoughts on the proposed ACE rule? It would essentially be around a few of the key issues in our soon-to-be submitted comments.

Thanks and regards, Venu



Venu Ghanta  
*Federal Regulatory Affairs Director*  
325 7th Street NW, Suite 300, Washington, DC 20004  
Office: 202-824-8013  
Cell: 202-699-2337

**COMMENTS OF DUKE ENERGY****on the****EMISSION GUIDELINES FOR GREENHOUSE GAS EMISSIONS FROM EXISTING  
ELECTRIC UTILITY GENERATING UNITS; REVISIONS TO EMISSION  
GUIDELINE IMPLEMENTING REGULATIONS; REVISIONS TO NEW SOURCE  
REVIEW PROGRAM****DOCKET ID No. EPA-HQ-OAR-2017-0355****83 Fed. Reg. 44746 (August 31, 2018)**

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**I. Introduction and Summary**

Duke Energy Business Services LLC (Duke Energy), on behalf of Duke Energy Carolinas LLC, Duke Energy Indiana LLC, Duke Energy Ohio LLC, Duke Energy Kentucky LLC, Duke Energy Florida LLC and Duke Energy Progress LLC, submits the attached comments to the United States Environmental Protection Agency (EPA) on the proposed rulemaking entitled “Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emission Guideline Implementing Regulations; Revisions to New Source Review Program.”<sup>1</sup> This proposed rulemaking is also known as the Affordable Clean Energy (ACE) rule. Headquartered in Charlotte, N.C., Duke Energy is one of the largest

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<sup>1</sup> 83 FR 44746

energy holding companies in the United States, serving approximately 7.5 million customers through our electric utilities and infrastructure business and 1.6 million customers through our gas utilities and infrastructure business in the Southeast and Midwest. We also operate a growing renewable energy portfolio across the United States.

Duke Energy supports EPA's efforts to repeal the Clean Power Plan (CPP)<sup>2</sup> and replace it with a rule that provides more regulatory certainty for the electric utility industry. We have long advocated for regulatory certainty in regulating carbon dioxide (CO<sub>2</sub>) emissions, as reducing emissions cost-effectively remains an important issue for our customers and a tenet of our investment strategy. Duke Energy's path forward includes the continued retirement of coal units that will reduce our emissions even further — likely at a greater level than what the ACE rule would require. However, regulatory clarity from the federal government is needed in order to ensure that the technological transformation occurring in the electric utility industry will continue.

We have been planning for a low-carbon energy future for more than a decade and continue to take actions that drive carbon emissions out of our system. We have already reduced our CO<sub>2</sub> emissions by 31 percent compared to a 2005 baseline, and our goal is to reduce them by 40 percent by 2030. We will invest \$11 billion in cleaner energy generation over the next 10 years to achieve and surpass this goal.<sup>3</sup> Without the regulatory certainty and clarity EPA is working to provide, our ability to ensure continued safe, reliable and affordable energy for our millions of customers will be challenged.

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<sup>2</sup> 80 FR 64662

<sup>3</sup> Duke Energy. (2018). *2017 Duke Energy Sustainability Report*. Retrieved from <https://sustainabilityreport.duke-energy.com/downloads/2017-DukeSR.pdf>

Key to this process of repealing and replacing the CPP is recognizing these substantial reductions in CO<sub>2</sub> emissions that companies like Duke Energy have already made through strategic planning and investment in multi-purpose emissions reductions technologies. For example, Duke Energy has modernized our current system of more than 52,400 megawatts, investing more than \$9 billion in state-of-the-art coal and natural gas generating facilities, representing approximately 6,600 megawatts of highly efficient generating capacity. Duke Energy also operates the largest regulated nuclear fleet in the nation, which has consistently set industry benchmarks for safety and reliability. We also have a large and growing portfolio of solar and wind facilities in more than 15 states, which will play a significant role in further decarbonizing our operations.

Over 38 percent of the power Duke Energy generated in 2017 was from carbon-free sources including nuclear, hydropower, solar and wind.<sup>4</sup> Providing compliance flexibility to states and utilities is essential to ensuring that such investments are acknowledged for their contribution to reducing CO<sub>2</sub> emissions, sparing customers from having to bear additional costs for emission reduction projects at older, less efficient plants.

Duke Energy supports EPA's proposal to replace the Clean Power Plan with a lawful interpretation of the Best System of Emission Reduction (BSER) under Section 111 of the Clean Air Act (CAA). Duke Energy also supports two other critical aspects of the ACE rule: the proposed revisions to the existing 111(d) implementing regulations to better harmonize with the statutory text, and EPA's proposed changes to the New Source Review (NSR) program to provide certainty that actions taken to comply with the standards of performance do not present the risk of triggering NSR permitting requirements.

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<sup>4</sup> Ibid.

Duke Energy's comments focus on the following provisions:

- Establishment of BSER: EPA's proposed BSER for steam generating EGUs is properly based on heat rate improvement (HRI) measures that can be applied at an affected source, and Duke Energy agrees that the proposed list of HRI "candidate technologies" for states to use in establishing unit-specific standards of performance in a state plan is appropriate.
- Flexibility for States and Sources: EPA unnecessarily constrains state flexibility by requiring that any emission reduction measures must be implemented and measurable at the source itself. As a result, EPA prevents proven, cost-effective methods for reducing emissions, such as emission averaging and trading, from being utilized. In doing so, EPA falls short of recognizing the electric sector's progress in reducing CO<sub>2</sub> emissions, and our plans to continue to retire older, less efficient plants and reduce emissions in a manner that does not burden customers. Duke Energy strongly encourages EPA to explicitly allow the states to utilize averaging and trading between units.
- Affected Sources: EPA has properly not included stationary combustion turbines and IGCC units in the BSER after finding that the potential emission reductions would be small and expensive as compared to the proposed BSER at coal-fired units. For the same reasons, EPA should specifically exclude steam generating units which exclusively burn natural gas.
- Establishment of Standards of Performance: EPA must provide additional information to states to allow them to set standards of performance that are representative of expected future operation and that allow for compliance with those

standards on an ongoing basis. Duke Energy recommends that the standards factor in the variability in emission rate due to the changing nature of coal-fired units' role on the electric grid, as well as the uncertainty associated with emission rate measurement. We specifically recommend that EPA require states to take expected future operation into account when establishing standards, and that EPA allow for states to establish multiple standards for a given unit corresponding to its load range or capacity factor.

- Demonstration of Compliance: EPA should ensure that states establish standards of performance that are achievable by the source. Duke Energy is concerned that individual sources may not be able to demonstrate compliance on an ongoing basis despite the source being properly operated and maintained and implementing the applicable HRI measures as determined by the state. This is due to variability associated with typical unit operation coupled with the uncertainty associated with CO<sub>2</sub> measurements. These concerns are exacerbated by EPA's insistence that averaging and trading across units is not permitted.
- Revisions to the 111(d) Implementing Regulations: Duke Energy generally supports EPA's proposed changes to the implementing regulations, in particular EPA's codification of the variance provision, the allowance of source-specific compliance deadlines, and the extensions in the timing of submission and approval of state plans.
- New Source Review: Duke Energy strongly supports EPA's proposal to reform the New Source Review (NSR) program's applicability provisions. NSR reform is essential to ensuring that sources have the ability to implement HRI measures without triggering burdensome and uncertain NSR requirements. Duke Energy supports

EPA's inclusion of an hourly emissions increase test based on maximum achievable hourly emissions.

## **II. EPA's Proposal Appropriately Implements the Purpose and Statutory Text of Section 111**

Duke Energy supports EPA's proposal, also known as the ACE rule, to replace the Clean Power Plan (CPP) with a lawful interpretation of its statutory authority under the CAA. Section 111(b)(1)(B) of the CAA requires EPA to establish "standards of performance" for emissions of air pollutants from new sources in a source category, known as new source performance standards (NSPS). Once EPA establishes an NSPS for a source category under section 111(b), EPA must also prescribe regulations for states to submit plans establishing standards of performance for existing sources for any air pollutant under Section 111(d), provided that air quality criteria have not been issued for the pollutant, the pollutant has not been included in a list published under Section 108(a), or the pollutant is not emitted from a source category regulated under Section 112.<sup>5</sup>

CAA Section 111(a)(1) defines standard of performance as a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction that the Administrator determines has been adequately demonstrated, taking into account costs and any non-air quality health and environmental impact and energy requirements. Under Section 111(d)(1), states, when establishing standards of performance for a given existing source, are permitted to take into account source-specific considerations, including the source's remaining useful life.<sup>6</sup>

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<sup>5</sup> 42 U.S.C. §7411(d)(1)(A)

<sup>6</sup> 42 U.S.C. §7411(d)(1)(B)

The proposed ACE rule appropriately recognizes that performance standards under Section 111(d) apply to individual sources within a regulated source category, based on a BSER that can be implemented at those individual sources. The proposed ACE rule also correctly recognizes that when performance standards are set for existing sources under section 111(d), EPA's role is limited to identifying the BSER for the source category and developing a procedure for states to establish standards of performance for existing sources. It is the states' role to apply that BSER to the affected sources within their borders and to set performance standards for those sources.<sup>7</sup>

EPA's proposed BSER is properly based on heat rate improvement (HRI) measures that can be applied at an affected source. This is consistent with Duke Energy's previously submitted comments on EPA's proposed repeal of the Clean Power Plan.<sup>8</sup> EPA's proposed interpretation of the BSER comports with the plain language of Section 111 of the CAA, to be applicable only at the facility of an affected source. Furthermore, the proposal rightly recognizes that states have the primary role in developing standards of performance consistent with application of the BSER and are afforded a great deal of flexibility in doing so.

Critically, in August 2015, EPA issued a final rule entitled "Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Sources: Electric Utility Generating Units,"<sup>9</sup> which established CO<sub>2</sub> emissions standards for fossil fuel-fired electric generating units under Section 111(b) of the CAA. This is a source-specific, "inside the fence" rule applying to new, modified, and reconstructed sources, consistent with the statutory direction

<sup>7</sup> This is not to say that EPA cannot provide guidance on how to set a performance standard consistent with the BSER. For example, EPA may determine that performance standards set by the states for existing sources need not (and should not) be more restrictive than the standards of performance for new, modified or reconstructed sources.

<sup>8</sup> "Duke Energy Comments on the Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Generating Units; Proposed Rule, 82 Fed. Reg. 48,035 (October 16, 2017)." April 26, 2018, EPA-HQ-OAR-2017-0355-20347

<sup>9</sup> 80 FR 64510

in the Clean Air Act and EPA’s historical interpretation of its authority under Section 111. With section 111(b) as the prerequisite and underpinning for regulation under 111(d), EPA must not deviate from the approach undertaken in its 111(b) rule when promulgating its 111(d) rule. Even though EPA attempted to expand the scope of its statutory authority with the CPP, it is telling that EPA did nothing similar under section 111(b). The section 111(d) rule should also adhere to this principle and practice.

An “emission limitation” “limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under [the CAA].”<sup>10</sup> Thus, BSER must be capable of “limit[ing] the quantity, rate, or concentration” of each source’s emissions on a “continuous basis,” and BSER must be capable of being “appl[ied]”<sup>11</sup> to each individual source, rather than only to the electric grid operating as a whole.<sup>12</sup> The proposed ACE rule satisfies these requirements, comporting with the statutory text and purpose of Section 111.

### III. Flexibility for States and Sources

EPA’s proposal recognizes that states have the primary role in developing standards of performance consistent with application of the BSER and are to be afforded a great deal of flexibility. Specifically, states have considerable flexibility in establishing source-specific standards of performance, and sources are able to meet the standard using the specific BSER technologies evaluated by the state or with non-BSER technologies. However, EPA constrains

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<sup>10</sup> 42 U.S.C. §7602(k)

<sup>11</sup> 42 U.S.C. §7411(a)(1)

<sup>12</sup> However, while the BSER must be capable of being applied to each individual source, that only dictates how the standard of performance must be established, not the method of compliance with such a standard.

this flexibility considerably by requiring that any measures must be implemented and measurable at the source itself. EPA proposes to allow emissions averaging among EGUs at a given facility and takes comment on a number of other options, including averaging of affected EGUs with non-affected EGUs at the same facility, averaging across multiple affected sources, and averaging and trading between affected sources.

Duke Energy supports policies that provide the incentive to reduce emissions in the most economically efficient way possible. EPA has, in previous stationary source programs, incorporated flexible compliance mechanisms such as emissions averaging and trading. These mechanisms have resulted in significant emission reductions at a lower cost than command-and-control programs. Use of these flexibilities has allowed Duke Energy to achieve significant emission reductions while still maintaining reliability and affordability for its customers. In addition, allowing sources a range of options for compliance allows for harmonization of compliance with the long-term planning needed to accommodate the technology-driven transformation and rapid change in generation mix in the electric sector.

EPA acknowledges in the proposal that CO<sub>2</sub> emissions in the electric sector are being reduced at a faster rate than expected and that emissions are expected to continue to decline. By not allowing averaging and trading, EPA fails to fully recognize this fact and may be forcing companies to comply with the ACE rule in ways that run counter to already established plans to continue reducing emissions in the most cost-effective manner. For instance, Duke Energy has already announced that we expect to retire a number of older, less efficient coal units in the coming years and replace the generation with low-cost and lower-emitting natural gas and

renewables.<sup>13</sup> This will have the effect of significantly reducing CO<sub>2</sub> emissions, likely at an even greater level than what the ACE rule would require, yet EPA's prohibition on averaging and trading would not allow Duke Energy to capture any of those emission reductions. This will have the effect of unnecessarily raising costs on customers.

Duke Energy agrees with EPA's proposal to allow averaging among affected units at a given facility and also agrees that reductions at non-affected units should not be allowed to demonstrate compliance. However, EPA's reluctance to allow states to utilize flexible options for demonstrating compliance among affected EGUs at different facilities is misplaced, especially in light of CAA Section 111(d)(1)(B) specifically assigning the role of providing for the implementation and enforcement of the standards of performance to the states. Duke Energy encourages EPA to allow states to avail themselves of the full flexibility permitted under the statute to determine how sources can meet the standards of performance. Mechanisms such as averaging and trading should explicitly be allowed, so long as they are restricted to only affected EGUs of the same type. The CAA Title IV NO<sub>x</sub> averaging program<sup>14</sup> is an example of a simple but effective program that has provided for compliance in a cost-effective manner by allowing emissions averaging across multiple facilities. An individual state could emulate the basic format of this program and develop an averaging program that would include all its sources within the state. Furthermore, there could even be programs that encompass sources in multiple states, provided the individual state programs are compatible.

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<sup>13</sup> Duke Energy. (2018). *2017 Duke Energy Sustainability Report*. Retrieved from <https://sustainabilityreport.duke-energy.com/downloads/2017-DukeSR.pdf>

<sup>14</sup> 40 CFR Part 76.11

#### IV. BSER Determination

##### A. EPA's Candidate Technologies Approach Is Appropriate and Comprehensive

As noted above, EPA has proposed to determine that the BSER for affected existing coal-fired EGUs is heat rate improvements. Specifically, EPA is proposing a list of HRI “candidate technologies” for states to use in establishing unit-specific standards of performance in a state plan. Rather than require the states to evaluate an exhaustive list of potential HRI measures, EPA has directed states to only evaluate those measures that are anticipated to be the most impactful in reducing the CO<sub>2</sub> emissions rate for each individual unit. EPA correctly recognizes that some owners/operators will have already deployed some or all of these measures and operated and maintained the unit to optimize its efficiency, such that there may be no further applicable HRI measures to employ.

Section 111(a)(1) of the CAA explicitly requires EPA to take cost into account when determining the best system of emission reduction. EPA has followed this statutory direction by evaluating the cost in dollars per kilowatt (kW) of a number of HRI measures and establishing cost thresholds of \$50/kW and \$100/kW for their application. For a given unit, there may be additional HRI measures that can be considered cost-effective based on the cost thresholds established by EPA but may not be available or cost-justified across the universe of coal-fired EGUs. It is appropriate for EPA to allow these additional HRI measures to be utilized for compliance at a given unit, but it would not meet the statutory definition of “adequately demonstrated” for EPA to require such measures at every unit across the country. Duke Energy recommends that EPA additionally provide these cost threshold values on the basis of dollars per ton of CO<sub>2</sub> removed, as it had done in the analysis for the Clean Power Plan.<sup>15</sup> This would better

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<sup>15</sup> 80 FR 64791

inform states in their evaluation of source-specific measures, particularly for units that have a short remaining useful life or operate at a very low capacity factor.

**B. EPA Has Correctly Excluded CCS and Co-firing from the BSER but Should  
Allow These Technologies to be Utilized to Demonstrate Compliance**

EPA has proposed that carbon capture and storage (CCS) and fuel co-firing should not be included in the BSER. EPA has determined that these technologies are not adequately demonstrated or readily available on a nationwide basis at a reasonable cost. Duke Energy agrees with this determination.

Duke Energy is retrofitting coal-fired units at several facilities to allow for the co-firing of natural gas.<sup>16</sup> However, due to several factors, gas co-firing is not intended or even available to be applied on a continuous basis. We have invested in co-firing with natural gas particularly where there is volatility in fuel prices for a given facility. The flexibility to utilize gas when market conditions are favorable serves to enhance the viability of coal-fired generating assets by allowing the EGU to continue to economically dispatch. Requiring co-firing as a practice to be included in a BSER evaluation would remove that flexibility and would redefine the source by replacing a market-driven decision with a command-and-control requirement to utilize a specific quantity of natural gas in order to meet a specific performance standard.

In contrast, any requirement to burn natural gas has implications for the natural gas market as well by affecting wholesale electricity prices, creating potential reliability concerns, and increasing heating costs for consumers. For example, under such a requirement, a coal-fired unit may be required to co-fire natural gas even in a situation where the gas market is constrained

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<sup>16</sup> Duke Energy. (2018). *2017 Duke Energy Sustainability Report*. Retrieved from <https://sustainabilityreport.duke-energy.com/downloads/2017-DukeSR.pdf>

due to high demand during the winter heating season, and/or situations of limited supply due to pipeline constraints. Duke Energy has experienced situations, such as during the 2014 polar vortex, where high natural gas demand has made gas unavailable and precluded units from operating. EPA notes correctly in the proposal “that co-firing of natural gas in co-fired utility boilers is not the best, most efficient use of natural gas and...can lead to inefficient operation of utility boilers.”<sup>17</sup> In addition, EPA states, “...it would not be an environmentally positive outcome for utilities and owner/operators to redirect natural gas from the more efficient NGCC EGUs to the less efficient coal-fired EGUs in order to satisfy an emission standard at the coal-fired unit.”<sup>18</sup> EPA should therefore leave any decisions about co-firing up to individual utilities and states that may choose to use it as a compliance tool, rather than considering it for BSER.

Regarding CCS, in the proposed Clean Power Plan, EPA stated:

However, application of CCS at existing units would entail additional considerations beyond those at issue for new units. Specifically, the cost of integrating a retrofit CCS system into an existing facility would be expected to be substantial, and some existing EGUs might have space limitations and thus might not be able to accommodate the expansion needed to install CCS. Further, the aggregated costs of applying CCS as a component of the BSER for the large number of existing fossil fuel-fired steam EGUs would be substantial and would be expected to affect the cost and potentially the supply of electricity on a national basis.<sup>19</sup>

EPA has proposed to reaffirm that conclusion in the ACE proposal, stating that it “... has previously determined that CCS (or partial CCS) should not be a part of the BSER for existing

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<sup>17</sup> 83 FR 44762

<sup>18</sup> Ibid.

<sup>19</sup> 79 FR 34857

fossil fuel-fired EGUs because it was significantly more expensive than alternative options for reducing emissions and may not be a viable option for many individual facilities.”<sup>20</sup> Duke Energy agrees and is not aware of any new information which would suggest CCS is viable for broad application on EGUs, particularly existing EGUs.

EPA proposes to allow both BSER and non-BSER measures to be used by sources to demonstrate compliance, so long as the measures are implemented at the source itself and are measurable at the source of emissions using data, emissions monitoring equipment, or other methods to demonstrate compliance. EPA specifically notes that there are emissions reduction technologies that are not candidate technologies; CCS and fuel co-firing are examples of measures that would meet these criteria. Duke Energy is a strong supporter of allowing states and affected EGUs extensive flexibility in meeting the standards of performance and agrees that measures such as co-firing of natural gas should be allowed as voluntary options for compliance. However, as discussed above, even broader flexibilities should be extended to sources in meeting their standards of performance. This will help ensure that compliance can be readily achieved, consistent with our longer-term plans to modernize our system and reduce emissions in a manner to ensure reliability and affordability for our customers.

### **C. EPA Was Correct in Not Identifying a BSER for Combustion Turbines**

By establishing CO<sub>2</sub> emissions standards for stationary combustion turbines under Section 111(b), EPA must also prescribe regulations developing a procedure by which states establish standards of performance for combustion turbines under Section 111(d). However, in the ACE proposal, EPA has not included stationary combustion turbines that meet the definition of either a combined cycle or combined heat and power combustion turbine as affected EGUs

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<sup>20</sup> 83 FR 44761

under this rule. EPA made this determination after evaluating the potential opportunities for emission reductions at natural gas-fired combustion turbines and finding that the reductions would be small and expensive as compared to the proposed BSER of heat rate improvements at coal-fired EGUs. This is consistent with EPA's conclusion in the final Clean Power Plan,<sup>21</sup> where it also determined that HRI measures at combustion turbines were not adequately demonstrated and thus could not constitute BSER.

Duke Energy agrees with EPA's determination. As detailed in an attachment to the Utility Air Regulatory Group's comments, actions that might improve combustion turbines' heat rates are highly unit- and manufacturer-specific and costs are rarely reported. In fact, some manufacturers do not offer such upgrades for gas turbines at all.<sup>22</sup> Further, as noted in that report, improvements to the steam cycle in natural gas combined cycle units would similarly provide marginal benefit, and EPA was therefore correct in not identifying changes to natural gas simple- or combined cycle units as BSER. Duke Energy further notes that the variable nature of combustion turbine utilization would make ascertaining the effect of a heat rate improvement upon the unit's CO<sub>2</sub> emission rate difficult, if not impossible.

As EPA acknowledged in its proposal and in the CPP final rule, it does not have sufficient information to justify establishing a BSER for this source category. If EPA does decide to regulate combustion turbines under 111(d), EPA should initiate a separate rulemaking to take comment on the newly acquired information that would be necessary to underpin such a determination. In addition, in any such BSER determination, EPA should recognize that it previously established 111(b) standards of performance for new and reconstructed base load

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<sup>21</sup> 80 FR 64728

<sup>22</sup> Cichanowicz, J. Edward, *Availability and Cost of Heat Rate Improvement (HRI) Actions Applicable to Gas Turbines in the Context of the Affordable Clean Energy Rule*, October 2018.

natural gas-fired units of 1,000 lb/MWh-gross.<sup>23</sup> This value should be considered a backstop, as no existing combustion turbine should have a standard of performance more stringent than the standard for a new combustion turbine. Thus, any existing units that emit at a lower rate than that standard should not be subject to further regulatory requirements beyond reporting of emission rate.

#### **D. EPA Should Exclude Steam Generating Units Burning Exclusively Natural Gas**

EPA has proposed that an affected electric generating unit (EGU) under this rule is any fossil fuel-fired electric utility steam generating unit that is not an integrated gasification combined cycle (IGCC) unit and that was in operation or had commenced construction as of August 31, 2018, with certain exclusions as identified in the proposal. In particular, the rule would only apply to fossil fuel-fired EGUs with a “nameplate” generator rating of 25 MW or greater and a fossil fuel heat input rating of 250 MMBtu/hr or greater.

Duke Energy recommends that EPA explicitly exclude steam generating units that burn exclusively natural gas from being an affected EGU under this rule. Very little opportunity for heat rate improvements exist at natural gas-fired boilers, and many of the candidate HRI projects in EPA’s proposal would not even be applicable. In Duke Energy’s experience, EGUs that have been converted from coal to gas typically operate at a low capacity factor, which undermines the cost-effectiveness of HRI measures. Emissions from natural gas-fired boilers are also inherently lower than emissions from comparable coal-fired boilers, because the fuel is less carbon-intensive. In fact, with few exceptions,<sup>24</sup> existing natural gas-fired boilers have a CO<sub>2</sub> emissions rate that is below the performance standard that applies to modified or reconstructed steam

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<sup>23</sup> 80 FR 64513

<sup>24</sup> Duke Energy reviewed the EPA CAMD database and found that, of 260 natural gas fired EGU boilers that reported generation values, 90% of the units had a calculated emissions rate less than 1,800 lb CO<sub>2</sub>/MWh-gross.

generating units (1,800 or 2,000 lb/MWh, depending on size of the unit).<sup>25</sup> Including natural gas-fired boilers would require states to expend significant resources in evaluating the candidate HRI technologies and sources to incur regulatory burden without providing commensurate emissions reductions.

### **E. EPA Was Correct in Excluding IGCC Units from the BSER**

Duke Energy owns and operates Edwardsport Station, a 618-MW IGCC facility in Knox County, Indiana. The facility began commercial operation in 2013, and is one of only two existing IGCC facilities in operation. These facilities are, by design, constructed, operated, and maintained to provide highly efficient generation utilizing available coal resources. The electric generation process for an IGCC facility is very similar to a natural gas-fired combined cycle unit, and in fact these facilities typically operate as a natural gas-fired combined cycle unit when the coal gasification system is not producing syngas. However, the coal gasification process is radically different than any conventional coal boiler system, and the elements that EPA has proposed as BSER have no meaning for an IGCC. Just as there are no demonstrated cost-effective heat rate improvement measures applicable to natural gas-fired combined cycle EGUs, there are no such measures applicable to IGCCs. Duke Energy therefore agrees with EPA's determination to exclude IGCC facilities from the BSER determination and the 111(d) rule.

### **V. EPA Must Ensure that the Standards of Performance Are Achievable**

EPA's proposed rule requires that states determine unit-specific standards of performance for affected EGUs within their state. In order to ensure continuity and simplicity, EPA proposes that states must express the standard in the form of an emissions rate in terms of mass of CO<sub>2</sub>

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<sup>25</sup> 80 FR 64513

emitted per unit of energy, such as pounds CO<sub>2</sub> per megawatt-hour (lb/MWh). EPA solicits comment on whether other forms of the standard of performance should be allowed.

CAA 111(a)(1) specifically requires that the standard of performance reflect “the degree of emission limitation achievable through the application of the best system of emission reduction...” Duke Energy is very concerned that EPA has not provided sufficient information to states to ensure that they can establish a standard of performance that is achievable for a given source and that EPA has unnecessarily limited state flexibility by requiring only one form of the standard.

In the proposal, EPA acknowledges that not only do heat rates vary substantially among coal-fired EGUs, but units themselves also experience significant variability in heat rates during normal operation. EPA specifically notes several factors that impact the efficiency and performance of individual units and that are largely out of the operator's control, such as geography, elevation and weather, unit size, coal type, pollution controls, cooling system, firing method, and utilization rate.<sup>26</sup> While EPA uses this to justify its proposed approach of tailoring measures to a source-by-source basis of application, EPA fails to mention that this variability in and of itself makes it challenging to establish a source-specific standard of performance in the first place that is representative of the unit's baseline operation and expected future operation, and accounts for degradation over time of the HRI measures established as BSER for a given source.

EPA proposed to allow states flexibility in establishing unit-specific emission rates but, aside from noting specific factors that may allow for a variance from the emission guideline, EPA provides little detail around the criteria states must take into account in setting standards of

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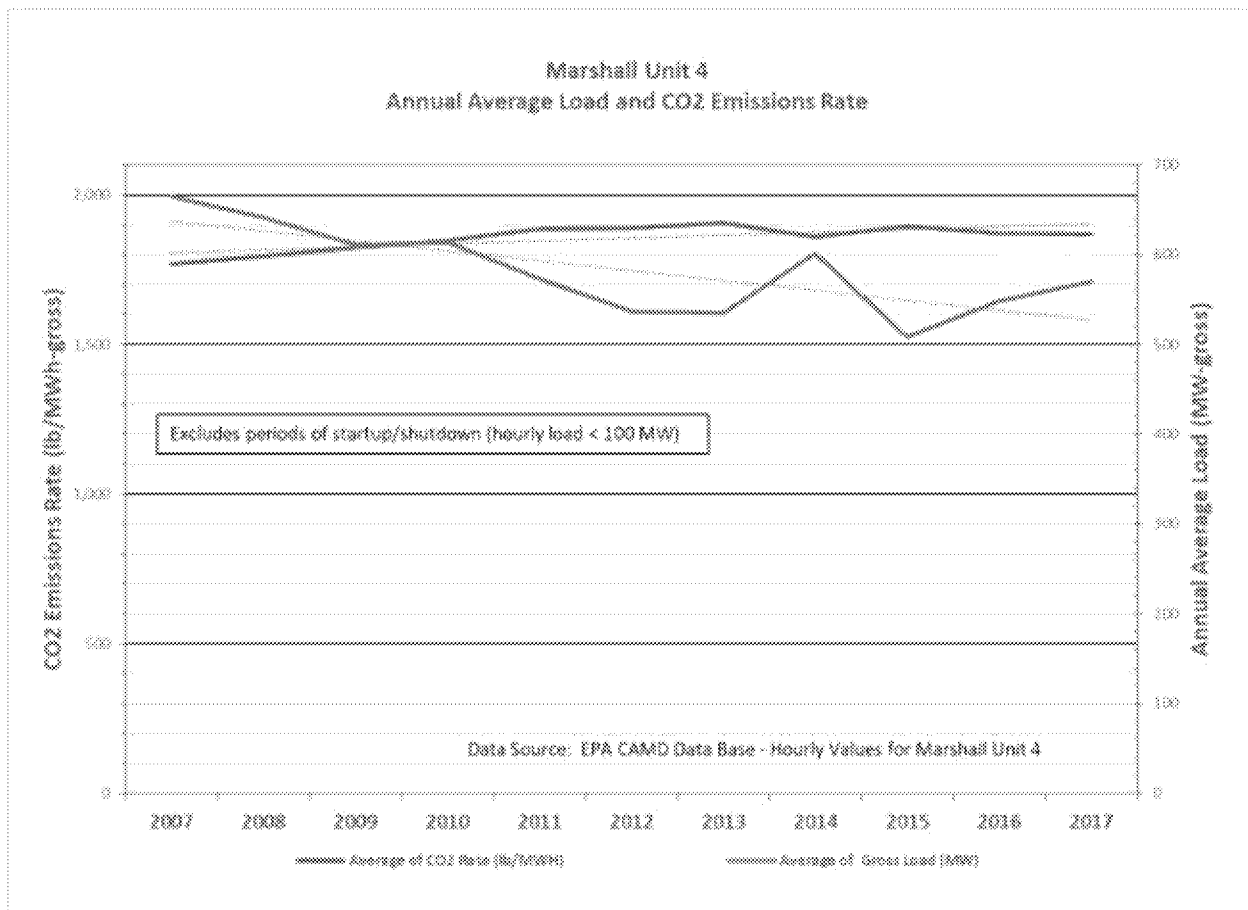
<sup>26</sup> 83 FR 44755

performance. Duke Energy suggests that EPA ensure that states take these following factors into consideration.

**A. Standards of Performance Should Factor in Representative Historic Operation and Expected Future Operation**

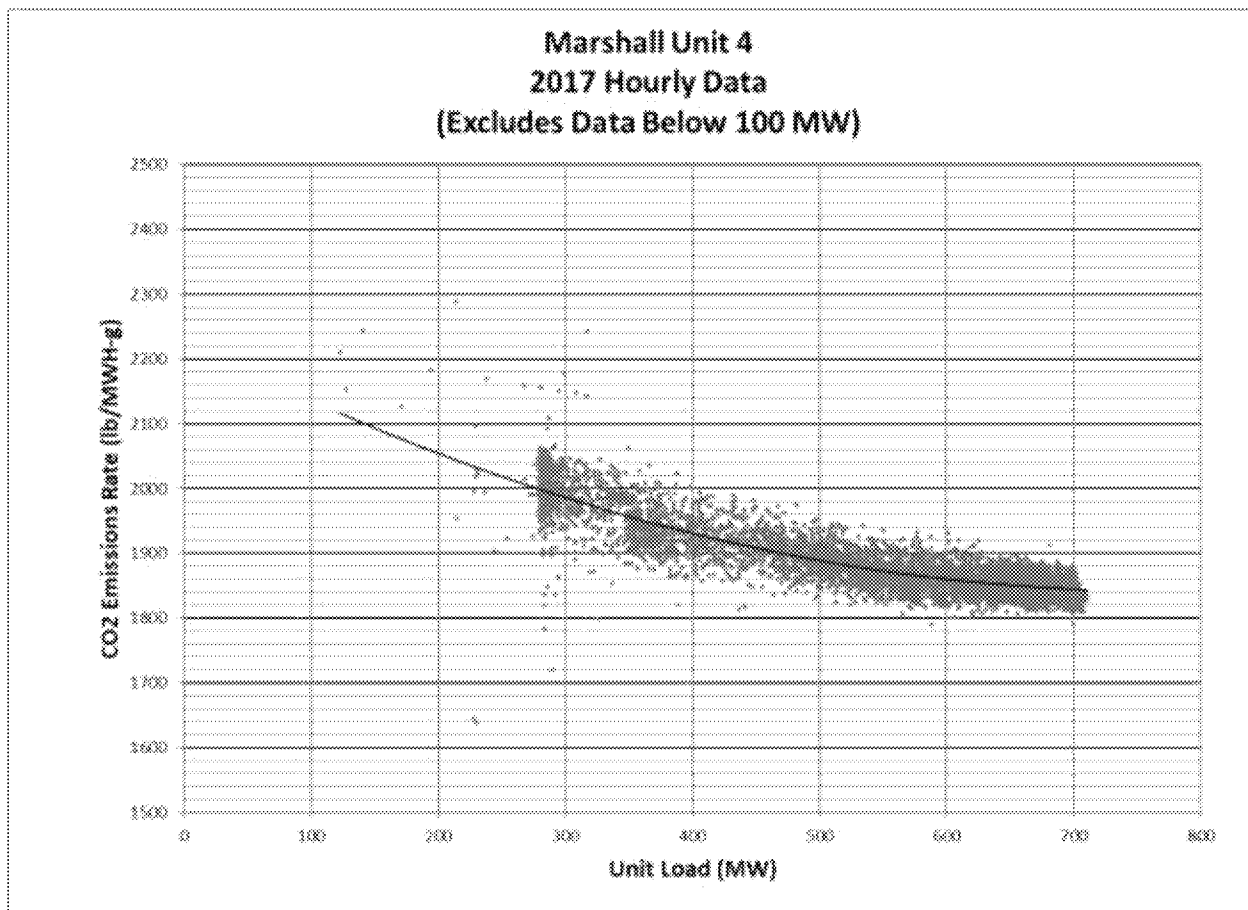
Duke Energy recommends that multiple years of historical operation should be used to establish unit-specific standards of performance. As discussed in detail later, because maintenance outage cycles for major boiler and generator components may be five years or more, a reasonable lookback period for determining the emission rate is at least 10 years. Review of historical emissions within the lookback period should include an evaluation of emission rates achieved during a variety of operating and maintenance conditions.

The figures below demonstrate how sensitive emission rate is to unit load for a representative coal-fired unit in Duke Energy's fleet, Marshall Unit 4. Figure 1 indicates that the average load at Marshall Unit 4 has declined by approximately 14% between 2007 and 2017, resulting in an annual average CO<sub>2</sub> emissions rate increase of approximately 6%.



**Figure 1: Marshall Unit 4 Operation from 2007-2017**

Figure 2 depicts the unit's average CO<sub>2</sub> emissions rate in 2017, from typical full load operation (approximately 700 MW) to typical minimum load (approximately 275 MW). The emission rate varies from approximately 1,840 to 2,000 lb CO<sub>2</sub>/MWh-gross, about a 9% difference from full load to minimum load.



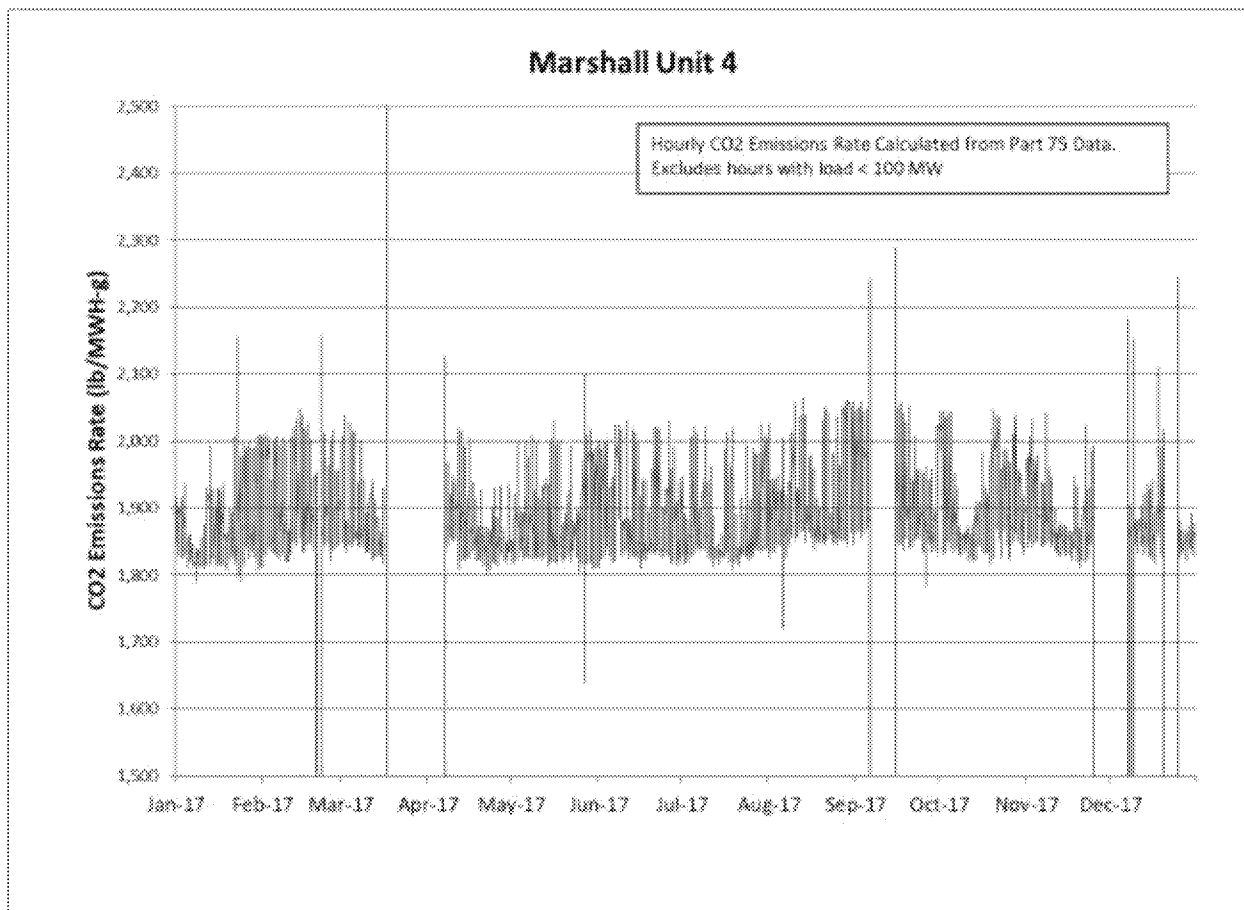
**Figure 2: Marshall Unit 4 Operation in 2017 from Typical Full Load to Typical Minimum Load**

The standards must also reflect expected future unit operation, in light of the rapidly changing nature of how coal-fired EGUs are utilized on the electric grid. EPA requires in the proposed § 60.5740a (a)(4)(i) that states include in their plan a summary of each affected EGU's anticipated future operation. This information should be utilized by states to consider how an EGU will operate in the future in the process of determining an achievable standard of performance. EPA should explicitly require that states include in their plan submittal a description of how expected future operation was taken into account in establishing the standard of performance.

## **B. Standards of Performance Can Take Multiple Forms**

Coal-fired EGUs are expected to experience increased cycling and to function more as load-following resources as natural gas and renewable generation on the electric grid increases. This operation results in significant variation in capacity factors and thus in heat rates on an annual, daily, or even hourly basis. As many coal-fired units will operate at lower or highly variable load ranges going forward, EPA should explicitly provide states the flexibility to establish differing standards corresponding to a unit's anticipated load range or capacity factor as a factor that a state considers under Section 111(d). This could be implemented by determining multiple standards of a performance for a given unit, based on anticipated future operation. These standards could consist of variations of the same form (e.g., lb/MWh at different load levels) or possibly a different form than an emission rate. This would allow the applicable standard for the unit to be more representative of its actual utilization and thus achievable.

Figure 3 demonstrates the day-to-day variability in hourly emissions rate for Marshall Unit 4 due to frequently changing load levels, and the impracticality of trying to demonstrate compliance with a single emissions rate established for all load levels.



**Figure 3: Marshall Unit 4 Hourly Operation in 2017**

EPA implicitly endorses the concept of standards taking multiple forms when contemplating a standard of performance for a source with a short remaining useful life in the proposal. EPA indicates that a state should set a standard of performance that is at least as stringent as “business as usual” without allowing for any backsliding on performance.<sup>27</sup> As referenced here, business as usual for many units, even those with longer remaining useful lives, may mean reduced or highly variable operating conditions with attendant variability in emission rates. Duke Energy believes that EPA must provide flexibility to states in determining if business

<sup>27</sup> 83 FR 44766

as usual operation can be best characterized via the establishment of multiple forms of emission rates for each source.

**C. EPA and the States Must Also Account for Measurement Variability in  
Continuous Emissions Monitoring Systems (CEMS)**

EPA's proposal requires states to include monitoring, reporting, and recordkeeping requirements in order to ensure that state plans adequately provide for the implementation and enforcement of the standards of performance. EPA proposes that data collected utilizing the existing methodologies in 40 CFR Part 75 should be the basis for meeting the monitoring, reporting, and recordkeeping requirements of the rule. The Part 75 requirements provide a system of quality assurance requirements and certification against standard methods to ensure the quality of measurements for key parameters, including stack flow and concentration of oxygen (O<sub>2</sub>) or CO<sub>2</sub> in the flue gas. Duke Energy generally agrees with EPA's proposal that existing data obtained via Part 75 monitoring is generally adequate to inform the determination of BSER and the establishment of the standards of performance, provided that states are able to establish standards that appropriately take into account measurement variability and uncertainty.

The measurement variability and uncertainty associated with continuous emission monitoring system (CEMS) data can be greater than the magnitude of the heat rate improvements applied at a given unit, making the demonstration of compliance with a numeric standard of performance challenging. The reported value for CO<sub>2</sub> emissions rate generally consists of a calculation consisting of multiple separate measurements and/or assumptions, with each input having a degree of uncertainty and variability. Other monitored pollutants such as SO<sub>2</sub> and NO<sub>x</sub> differ from CO<sub>2</sub> in that the reductions resulting from emissions control devices are of a larger magnitude than the uncertainty in measurement. The National Institute of Standards and

Technology (NIST) cited “inconsistencies between measured CO<sub>2</sub> emissions and emissions calculated from coal consumption are on the order of 10% to 20%” as the basis for its project to identify and resolve technical issues affecting the accurate measurement of CO<sub>2</sub> emissions.<sup>28</sup>

EPA also proposes that, instead of Part 75, states can use an alternative monitoring, recordkeeping, and reporting program. Duke Energy supports this flexibility but notes that any measurement methodology will have a certain amount of uncertainty and variability which must be reflected in the established standard of performance to ensure that it is achievable.

#### **D. EPA Should Express the Allowable Emission Rate in Terms of Gross Heat Rate**

EPA is proposing that states establish standards of performance in terms of an allowable emission rate in lb CO<sub>2</sub>/MWh-gross, and requests comment on the merits of differentiating between gross and net heat rate. Duke Energy believes that any performance standard for existing EGUs should be based on gross heat rate rather than net heat rate. Gross heat rate best represents the performance of the affected EGU itself, which is the regulated source under Section 111(d), and measuring an EGU’s gross output is very straightforward because it is measured at only a single location, i.e., the output of the electric generator. Duke Energy expressed these same concerns in its comments to EPA on the proposed Clean Power Plan, and those comments are incorporated by reference here.<sup>29</sup> As detailed in those comments, Duke Energy’s concerns are summarized as:

- 1) Measuring gross generation (gross MWh) as the basis for heat rate improvements and an emissions performance standard is consistent with monitoring and reporting

<sup>28</sup> “Smoke Stack Simulator.” *National Institute of Standards and Technology*, 23 December 2016, <https://www.nist.gov/programs-projects/smoke-stack-simulator>.

<sup>29</sup> “Duke Energy Comments on the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Proposed Rule. 79 Fed. Reg. 34,830 (June 18, 2014), December 1, 2014,” EPA-HQ-OAR-2013-0602-27188, pp. 184-186.

requirements in the current 40 CFR Part 75 and with other output-based emissions standards for existing EGUs, and with the EPA's gross output standard for new EGUs under 40 CFR Part 60 Subpart TTTT.

- 2) To calculate net heat rate, net MWh generation must be measured, which will require significant and costly changes to the way auxiliary power usage is measured at EGU facilities. For many components, electrical consumption is not measured directly at the component but aggregated at various load centers.
- 3) Net heat rate entails measuring electricity used by numerous auxiliary support processes that are not part of the affected source, such as fuels and materials handling systems, water intake structures and cooling towers, and general facility systems such as HVAC and instrument air compressors. Those facilities are beyond the scope of the affected source but essentially become regulated by requiring the use of net generation.
- 4) Net heat rate may also be challenging for multiple unit facilities. It is very common that certain auxiliary equipment at a facility is shared between multiple generating units. For example, Duke Energy has multiple facilities where common FGD systems are shared between two or more generating units. The auxiliary power used for these support systems is not measured and attributed to an individual generating unit in a consistent fashion across the industry. A further complication comes when a facility has one or more generating units in service and has others that are shut down but that still consume some amount of auxiliary power even when not operating.

However, to provide full flexibility, states should retain the option to allow a source to demonstrate compliance based on net heat rate to allow for implementation of any cost-effective

measures that an EGU may choose to implement which would reduce overall auxiliary power consumption. To facilitate this process, two things must happen. First, EPA would have to establish an option parameter in Part 75 to allow sources to begin reporting net generation. Second, individual sources would need to work with their states to agree upon exactly how net generation would be reported on a unit-by-unit basis. There are substantial differences between individual units, and it would be cost-prohibitive to force all EGUs to fit into a single model monitoring plan. States can best decide what factors are quantified as auxiliary power, which constitutes the difference between gross and net generation for each unit, and the requirements for the equipment that measures this generation.

## **VI. EPA Must Provide Specificity to States to Facilitate Demonstration of Compliance**

As required in CAA Section 111(d)(1)(B), state plans must provide for the implementation and enforcement of the standards of performance. EPA proposes that state plan components, such as monitoring, reporting, and recordkeeping, are sufficient to meet that requirement. EPA further proposes in § 60.5755a(b) that the unit-specific standards of performance established by the states must be quantifiable, verifiable, non-duplicative, permanent, and enforceable for each affected EGU. EPA solicits comment on whether other measures may be needed for states to meet the 111(d)(1)(B) requirements.

Duke Energy believes that EPA must provide more specificity to inform states and sources how compliance with the standard of performance will be determined to meet the proposed § 60.5755a(b) requirements. As noted above, the variability associated with typical unit operation coupled with the uncertainty associated with the CEMS measurements could easily overwhelm the improvements that would come from the application of HRI or other measures a source may implement to comply with the performance standard. As a result, sources may not be

able to demonstrate compliance on an ongoing basis despite the source being properly operated and maintained and implementing the applicable HRI measures as determined by the state. This is very concerning, because as noted previously, the terms “emission limitation” and “emission standard” in CAA 302(k) require that a source “assure[s] continuous emission reduction.”

Duke Energy strongly recommends that EPA provide the states a procedure for enforcing a standard to ensure that sources can demonstrate compliance when they have implemented the applicable HRI measures and the unit has been properly operated and maintained. EPA should also allow states the option, as an alternative to using Part 75 monitoring to determine compliance, to provide for periodic verification of performance through a defined full load testing protocol to demonstrate that the EGU meets the performance standard. To assure continuous compliance, the state plan could provide for additional parametric monitoring and maintaining records of operations, maintenance, and corrective actions to restore performance, such as via use of a Compliance Assurance Monitoring Plan. This approach would assure that the focus of the rule is on implementing and achieving best practices to maintain or improve heat rate (and the CO<sub>2</sub> emissions rate) at an EGU.

#### **A. EPA Should Provide Additional Guidance Around Averaging Times and Compliance Deadlines**

EPA’s proposal notes that states have discretion to establish averaging times for affected EGUs in order to demonstrate compliance with the standards of performance. EPA specifically asks for comment on whether there should be bounds to the averaging times states are allowed to consider. For the following reasons, Duke Energy believes that the averaging time for a standard of performance should be a five-year block averaging time, consistent with typical planning and maintenance cycles.

A five-year block averaging time makes sense because power generators are required to meet customer demand instantaneously, even though it varies seasonally and hourly. Because complex equipment can fail unexpectedly, utilities must have generation capacity in reserve, ready to operate at a moment's notice. As a result, EGUs must be available to operate for extended periods whenever called upon. At the same time, to be ready for varying and instantaneous demand, planned maintenance outages require extensive tear-down and restoration of large components that may require weeks to months out of service. Typical schedules for major maintenance outage vary by the individual unit but can be five years or more on a unit that has been operated and maintained in accordance with routine procedures to assure ongoing operational reliability.

Gradual degradation of mechanical components and systems is inherent between scheduled maintenance outages, and this degradation impacts heat rate and the CO<sub>2</sub> emissions rate relative to electrical output. In addition to normal degradation, EGUs may experience unavoidable malfunctions or breakdowns of mechanical/physical components that may impact heat rate and CO<sub>2</sub> emission rate. EGUs require a high degree of resiliency so that operation can continue following temporary repairs or corrective actions in response to failure of certain components (e.g., damage to turbine blades, failure of a feedwater heater, or boiler steam tubes), where full repair would require a long lead time to secure materials and/or would require an extended outage. If an EGU were forced to remain offline until full repairs can be made to restore short-term heat rate and CO<sub>2</sub> emissions rate following unavoidable malfunctions, there could be serious implications for electric reliability.

Duke Energy also appreciates EPA's proposal to allow states the flexibility to establish custom compliance schedules. This tailoring will allow states to take source-specific

considerations into account when establishing deadlines rather than having to enforce a uniform compliance period. Similar to averaging time, these compliance timelines should also be informed by a unit's typical planning and maintenance cycles. As a result, EPA should require states to harmonize the averaging period and compliance schedule for a source to reduce burden and facilitate compliance.

### **B. EPA Should Consider Providing a Numerical Backstop**

EPA proposed not to provide states a default methodology for determining standards of performance consistent with the BSER. Specifically, EPA references the standard for modified sources, which was based on historical emissions rate of the unit. EPA notes that the circumstances for establishing a standard for modified units are different from those for existing units. In addition, EPA posits that such a presumptive standard could be seen as limiting states' ability to deviate from such a standard and would have the overall effect of binding state flexibility, in conflict with the statutory direction in 111(d).

Duke Energy largely agrees with this rationale and believes that EPA has accordingly determined BSER and the procedure for states to establish standards of performance. However, Duke Energy believes that EPA should consider specifying the 111(b) modified or reconstructed standard (or an alternative less stringent emission rate) as a floor for the emission rate for existing EGUs established in this rule. For modified or reconstructed steam generating units, EPA based the standards "on the performance of the most efficient generating technology for these types of units as the BSER (i.e., reconstructing the boiler if necessary to use steam with higher temperature and pressure, even if the boiler was not originally designed to do so)."<sup>30</sup> The standards are 1,800 lb CO<sub>2</sub>/MWh-gross for large sources (heat input rating greater than 2,000

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<sup>30</sup> 80 FR 64514

MMBtu/hr), or 2,000 lb CO<sub>2</sub>/MWh-gross for small sources (heat input rating of 2,000 MMBtu/hr or less). Because these standards were based on EPA's determination of the "most efficient generating technology" for existing units that undergo reconstruction, it would not be appropriate to subject existing units that are not undergoing modification or reconstruction to a more stringent performance standard. From a practical point of view, it is cost-prohibitive to upgrade an existing EGU to higher-pressure steam, make significant increases in steam temperature, or convert from a sub-critical to a supercritical technology, and such measures would go well beyond the candidate technologies EPA has proposed as the BSER for existing sources. In setting the NSPS for modified or reconstructed coal-fired EGUs, EPA determined that BSER was the EGU's best one-year historical performance and could be met through a combination of best operating practices and equipment upgrades.<sup>31</sup> Duke Energy believes this standard should be the floor for existing units, although EPA could establish a higher floor that is more representative of existing steam generating units based on the data in the record.

### **C. States Should Allow for Process Steam from Cogeneration Units to be Used for Compliance**

The proposed rule does not address how states should evaluate an EGU that supplies part of the steam produced to an industrial process. Duke Energy's Cayuga Station operates with a contractual obligation to provide steam to a neighboring manufacturing facility. The proposed rule does not include combined heat and power facilities as affected units, but there are a number of EGUs in the United States that provide some amount of steam for other industrial or commercial uses that would be affected units. It would be helpful for EPA to provide a formula

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<sup>31</sup> 80 FR 64513

for how steam generated for other useful purposes can be counted by states toward compliance with the performance standard.

## **VII. EPA's Revisions to the 111(d) Implementing Regulations Are Appropriate**

Section 111(d) requires EPA to issue regulations establishing a procedure under which states submit plans establishing standards of performance for existing sources. The plans must also provide for the implementation and enforcement for such standards. The regulations must be similar to those provided by Section 110 and must allow states to take into account remaining useful life of a source, among other factors, in determining a source's standard of performance. These regulations, first issued by EPA in 1975, are known as the 111(d) implementing regulations.

EPA is proposing changes to these implementing regulations to reflect post-1975 changes to the statutory language in Sections 110 and 111. Rather than permanently revise the current implementing regulations in Subpart B of 40 CFR Part 60, which could impact the implementation of previously finalized rules and approved state plans, EPA is proposing to establish a new Subpart Ba that would apply to this rule and future actions under Section 111(d). Duke Energy generally supports this approach and EPA's proposed changes to the implementing regulations.

### **A. Updates to Timing Requirements**

EPA proposes a number of changes applicable to this rule and future emission guidelines to the timing requirements in the existing 111(d) implementing regulations, all of which are informed by EPA's experience implementing the requirements of Section 110, and the statutory direction to align with State Implementation Plan (SIP) submission under Section 110. Duke Energy supports these changes.

In particular, the current implementing regulations in 40 CFR 60.23(a)(1) require states to submit state plans within nine months after the publication of an emission guideline document, unless otherwise specified. While this provides some flexibility to EPA to provide a longer timeline for state plan submission, as was allowed in the Clean Power Plan, it would be logical for EPA to extend that timeline to a more reasonable duration and allow state discretion to submit state plans on an earlier timeline. EPA has done so by proposing to allow three years for plan submission but leaves the option open of requiring a shorter timeline for a future action. While Duke Energy appreciates that EPA wishes to retain the option of a shorter timeline going forward, three years is a reasonable time frame, particularly in light of the effort required by states to evaluate the candidate HRI technologies and establish standards of performance on a unit-specific basis.

EPA also proposes changes to the time frame for review of state plan submittals. The proposed changes require EPA to make a determination about the plan's completeness within six months after it is submitted, with a 12-month period for evaluation of the state plan after the determination of completeness. Duke Energy strongly supports EPA's inclusion of specific completeness criteria in order to prevent any confusion or ambiguity about the state plan requirements and the criteria against which EPA is evaluating them for completeness. The state plan review time frame being specifically tied to the time frame for the determination of completeness also provides additional clarity to all parties regarding the review process.

Finally, EPA proposes to allow two years from the date EPA disapproves a state plan or finds that it is incomplete to issue a federal plan. This is also reasonable because EPA would also have to establish unit-specific standards of performance with the same rigor applied by the states. Additionally, allowing for two years could provide sufficient time for the state to attempt to

provide an approvable state plan by remedying any of the elements of the state plan that led to EPA disapproval.

### **B. Variance Provisions and Remaining Useful Life**

EPA proposes changes to 40 CFR 60.24(f), which allows states to apply less stringent emissions standards or longer compliance schedules than what the emission guidelines would require. This is also known as the variance provision. The new variance provision would specifically enumerate remaining useful life as a factor states may consider in determining a source's standard of performance. This is critical, as it now clearly aligns the implementing regulations with the statutory language in Section 111(d)(1)(B). However, the statutory language also states that states may take "other factors" into account. EPA specifically requests comment on what "other factors" states should be allowed to consider besides remaining useful life. In addition, EPA solicits comment on what a standard might look like for a source with a short remaining useful life or one that has already implemented all of the HRI measures identified as the BSER.

While the revision to include remaining useful life is a useful and necessary change in light of the statutory text, it is unnecessary for EPA to provide a comprehensive list of source-specific factors that a state may consider, and, in fact, doing so may have the effect of constraining state flexibility in establishing standards. As noted above, it is critical that states take future operation into account in establishing source-specific standards of performance. EPA specifically requires that state plans include a summary of each affected EGU's anticipated future operation characteristics in the proposed § 60.5740a(a)(4). This information, which will help inform states in determining the overall cost-effectiveness and applicability of HRI measures, may give meaning to the statutory term "other factors." In general, it would be helpful

for EPA to provide specific examples of how these other factors could be utilized to allow states to provide source-specific flexibility in an approvable plan.

### **C. Compliance Deadlines**

Duke Energy appreciates EPA's efforts to provide state flexibility by allowing states to establish custom compliance schedules for each source. Coupled with the variance provision in the implementing regulations, this will provide a significant degree of latitude to states in tailoring plan requirements on a source-specific basis. This flexibility is under the authority of the proposed applicability provisions, which allow for each emission guideline to include specific provisions that supersede the requirement that the EPA Administrator must establish the time within which compliance is to be achieved.

The current implementing regulations require legally enforceable increments of progress to be established for any compliance schedule extending more than 12 months from the date required for plan submittal. EPA proposes to extend this timeline to 24 months, which better comports with EPA's proposal to allow states to establish tailored compliance deadlines for sources. However, as noted earlier, an averaging period of at least five years would be logical to allow for implementation of required HRI measures and to account for expected operational variability. As a result, if EPA requires sources to demonstrate incremental progress prior to the established compliance date, the legally enforceable metrics should be demonstration of proper operation and maintenance, as well as completion of or plans to implement the applicable measures required in the approved state plan.

## **VIII. Revisions to the New Source Review Program Are Needed**

EPA's current interpretation of the New Source Review (NSR) provisions under the Clean Air Act has been a source of protracted litigation and regulatory uncertainty that has

strongly discouraged unit owners/operators from carrying out projects that would maintain or improve the efficiency, safety, and reliability of their units. This is particularly important in the context of the ACE rule, as the measures that states may require sources to implement are precisely the type of projects where EPA has litigated utilities over alleged NSR violations.

If NSR is not reformed in conjunction with the ACE rule, the costs of implementing HRI measures could increase significantly beyond the estimates made in this rule. As a result, unit owners/operators could choose to shut their units down instead of dealing with the burden associated with NSR permitting. As a result, Duke Energy strongly supports EPA's efforts to reform the NSR program's applicability provisions and recommends the following changes to EPA's proposal.

#### **A. Duke Energy Supports an Hourly Emissions Rate Test**

Duke Energy supports adoption of a "maximum achievable" hourly emissions rate test as the first step to determine whether a project is a "modification" of the existing stationary source. An NSR maximum achievable hourly emissions test, consistent with the "maximum hourly" emissions test used under the New Source Performance Standards (NSPS) program,<sup>32</sup> provides a clear standard for comparing pre-project and post-project hourly emissions and would encourage projects at EGUs to maintain safe, reliable and efficient operation. Unlike the ambiguous annual emissions tests of "actual to potential actual" or "actual to future actual" that have been the subject of extensive litigation, the NSPS hourly emissions test focusing on pre-project compared to post-project hourly emissions is clear-cut and has withstood judicial challenge since the inception of the NSPS program in the 1970s.

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<sup>32</sup> 40 CFR 60.14

An NSR maximum achievable hourly emissions test isolates whether the project directly and specifically causes an increase in the unit's hourly emissions by evaluating a unit's performance under the same conditions before and after the project or change in the method of operation. Additionally, the proposed maximum hourly emissions test allows the stationary source's operator to evaluate potential emission changes based on the specifics of the individual project, emission factors and the operating characteristics of the unit. The basic premise is that if a project does not expand the size or capacity of the source (i.e., increasing its fuel firing capability, or throughput), or does not increase the emissions rate of an existing pollutant or cause the unit to begin emitting a new pollutant, then it will not increase its hourly emissions. Thus, if there is no increase in hourly emissions attributable to the project, then the project is not considered a modification. For example, like-kind replacement of equipment, as demonstrated by decades of operational experience, would not be expected to cause an increase in hourly emissions during the post-project period. Therefore, the proposed maximum achievable test allows the operator to reasonably exclude conditions that may increase emissions but are not related to a project or physical change, such as fuel constituents and costs, climate conditions, and variable operating costs.

Conversely, Duke Energy does not support EPA's proposed Alternatives 1 and 2, which are based on "maximum achieved" emissions. These alternative proposals for calculating maximum achieved emissions rate pre-project and post-project are confusing, do not account for causation, and create a cumbersome recordkeeping burden on the operator. As noted above, emissions measurement is subject to significant uncertainty, limiting the ability to calculate maximum achieved hourly emissions with sufficient accuracy and precision for purposes of this review.

EPA has the authority to utilize an hourly emissions rate test because when Congress enacted the NSR program, it did not specify the basis for calculating emissions increases. That was left to EPA's discretion in balancing environmental goals with economic impacts. Additionally, EPA is correct in asserting that an “achievable” test is equivalent to an evaluation of actual emissions. The maximum achievable hourly emissions rate test is not a theoretical maximum capability test (maximum potential test); rather, it is a measure of what a source was actually able to emit based on physical and operational capacities demonstrated during a representative period prior to the change. Moreover, EPA’s NSPS regulations state that if a source cannot clearly demonstrate through the use of emission factors or engineering analysis that an emissions increase will not occur, then the source must conduct *actual* testing under conditions representative of the baseline period to ensure that no increase has occurred.<sup>33</sup> Use of a maximum achievable hourly emissions rate test is consistent with this requirement.

### **B. EPA Must Clarify that “Causation” Is Required Under the One-Hour Test**

Obviously, the purpose of having a one-hour test is to determine whether a physical or operational change may be a “modification” for which an NSR permit is required. The statutory definition of a modification is as follows:

The term “modification” means any physical change in, or change in the method of operation of, a stationary source, *which increases* the amount of any air pollutant emitted by such source *or which results in* the emission of any air pollutant not previously emitted.<sup>34</sup>

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<sup>33</sup> 40 CFR 60.14(b)(2)

<sup>34</sup> 42 U.S.C. §7411(a)(4)

Thus, as a legal matter, the relevant question is whether a physical or operational change “increases” emissions from the source or “results in” emissions of a pollutant not previously emitted – i.e., whether the change will *cause* an emissions increase. This is why EPA’s NSR regulations have always provided that, when a source is projecting what future emissions will be after a physical or operational change, it should exclude emissions that are “unrelated to the particular project, including any increased utilization due to product demand growth.”<sup>35</sup>

We are concerned, however, that the proposed rule does not explicitly state that causation is a required element under any of the proposed EGU hourly emission test alternatives. To the contrary, there is language in the preamble suggesting that “any increase in the emissions under the hourly emissions tests [after a change] would logically be attributed to the change.”<sup>36</sup> This is simply incorrect. There are several reasons why the hourly emissions rate of a pollutant can increase that have nothing to do with any physical or operational change.

For example, when it comes to SO<sub>2</sub> emissions, natural variability of the sulfur content in the fuel could easily cause an increase in the hourly SO<sub>2</sub> emissions. Unless a source made a change to accommodate higher sulfur coal, such an increase is unrelated to any change. Second, ambient conditions have an effect on an EGU’s hourly emissions rate. If a unit is operating in ambient conditions that it did not experience during the baseline period (or if there is combination of operations and ambient conditions that did not occur during the baseline period), its hourly emissions may increase regardless of whether there has been any physical or operational change. Likewise, changes in market conditions can influence a unit’s hourly emissions. While Duke Energy expects that capacity factors on coal-fired EGUs will generally continue to decline due in part to the availability of low-cost natural gas, the price of natural gas

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<sup>35</sup> 40 CFR 52.21(b)(41)(ii)(c)

<sup>36</sup> 83 FR 44778

could increase significantly for a short period of time. If a coal-fired unit has been operating in a certain manner during the baseline period when natural gas prices are low, operation may be different during periods of higher natural gas prices, thus impacting the ability to demonstrate that the unit did not exceed the hourly emissions test.

Thus, in the final rule, EPA should clarify that, under any hourly test, the question is whether a particular physical or operational change will cause (or has caused) an increase in hourly emissions. If there is an increase that is unrelated to a physical or operational change, then the change is not a modification and there is no need to apply the annual test to determine whether there will be (or has been) a major modification that requires an NSR permit.

### **C. EPA Should Simplify the Method for the Emission Rate Test**

Duke Energy promotes the use of a maximum achievable hourly emission rate test but recommends that the method EPA has proposed should be simplified. Through use of the maximum achievable test, there are only two reasons why a project could potentially result in an emission rate increase: Either there is an increase to the hourly heat input capability of the unit (the amount of fuel fired), or there is an increase to the emission rate of a pollutant. As stated above, there are numerous projects, as demonstrated through engineering analysis and operating experience, that would not be expected to show an emission rate increase. Examples of this include the replacement of electric motors, piping, boiler tubing, leaking valves, air heater seals, soot blower components, surfaces subject to wear, bearings, and turbine blading with new components that have the same function and capability. In cases like these, it is not necessary to perform a detailed numerical analysis for every instance when a project is conducted to justify whether a project would result in an emissions increase. An engineering evaluation is all that is

needed to determine that a particular project would change neither the heat input nor an emission rate.

#### **D. EPA Should Make NSR Reforms Broadly Applicable**

Duke Energy agrees with EPA that the hourly emissions rate test should be applicable to all EGUs regardless of whether the unit is subject to the ACE rule or where the unit is located. Although some EGUs may not be subject to the ACE rule, these units should still be able to cost-effectively implement efficiency or reliability projects that would result in environmental benefits. The current NSR program dis-incentivizes these sorts of HRI projects.

Duke Energy also agrees that the hourly emissions rate test should apply to all pollutants. As EPA states, "...the candidate technologies being considered under this proposal may affect annual emissions of not only GHGs but of all pollutants from the power sector...."<sup>37</sup> Limiting the proposed hourly emission rate test to specific pollutants is not consistent with the NSR process articulated in the statute. Sources are required to assess NSR applicability for all regulated NSR pollutants prior to commencing construction of any project so there should be no discrimination.

Furthermore, Duke Energy urges EPA to not give states flexibility as to whether to adopt the proposed NSR changes into their rules. EPA should instead make the changes applicable on a nationwide basis. The burdens from current NSR implementation apply to each jurisdiction, and the benefits of reform should be available to the entire regulated community. Additionally, making adoption mandatory would create consistency across all states. Duke Energy has operations spanning multiple states, and having NSR requirements vary from jurisdiction to jurisdiction would increase regulatory burden and uncertainty.

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<sup>37</sup> 83 FR 44781

### **E. NSR Reforms Are Critical to the ACE Rule**

Duke Energy agrees that the NSR revisions are “appropriate policies in their own right”<sup>38</sup> and severable from the other actions proposed in the ACE rule. NSR is a stand-alone program that is not reliant on the existence of other regulatory programs, and sources are required by statute to evaluate the applicability of NSR regardless of the applicability of other regulatory programs. However, the NSR amendments are vitally important to the viability of the ACE rule. As a result, the NSR reforms must be finalized on the same time frame as the ACE rule. If the NSR amendments are delayed in going into effect for any reason, the ACE rule must be delayed or reconsidered entirely to avoid the NSR permitting problems sources could face.

### **IX. Conclusion**

We appreciate EPA’s continued efforts to repeal and replace the CPP. The ACE rule limits CO<sub>2</sub> emissions from existing power plants in a manner that follows the Clean Air Act’s requirements while respecting the important role of the states. Our suggestions herein focus on how the ACE proposal can be improved to provide appropriate flexibility to the states and ensure that compliance with emission standards can be achieved far into the future as the role of different generation sources on the electric grid change over time. We support EPA’s proposed revisions to the existing 111(d) implementing regulations, as well as changes to the NSR program in order to allow for common-sense projects at power plants that would increase efficiency and lower emissions. Thank you for your consideration of our comments, and we look forward to working productively with you through the implementation of a final rule.

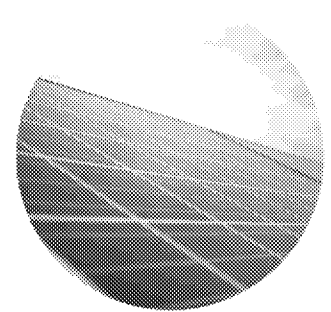
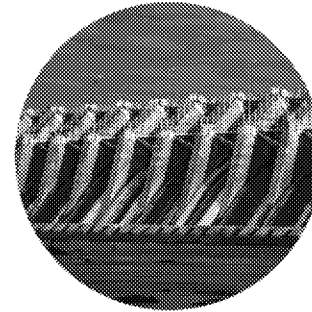
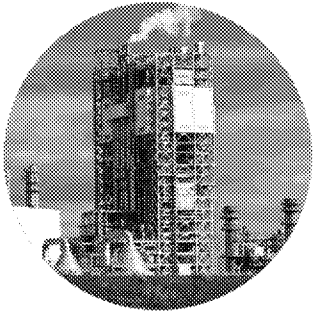
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<sup>38</sup> 83 FR 44783

# Meeting with EPA on the Affordable Clean Energy Rule

Overview of Duke Energy's ACE Comments

November 16, 2018



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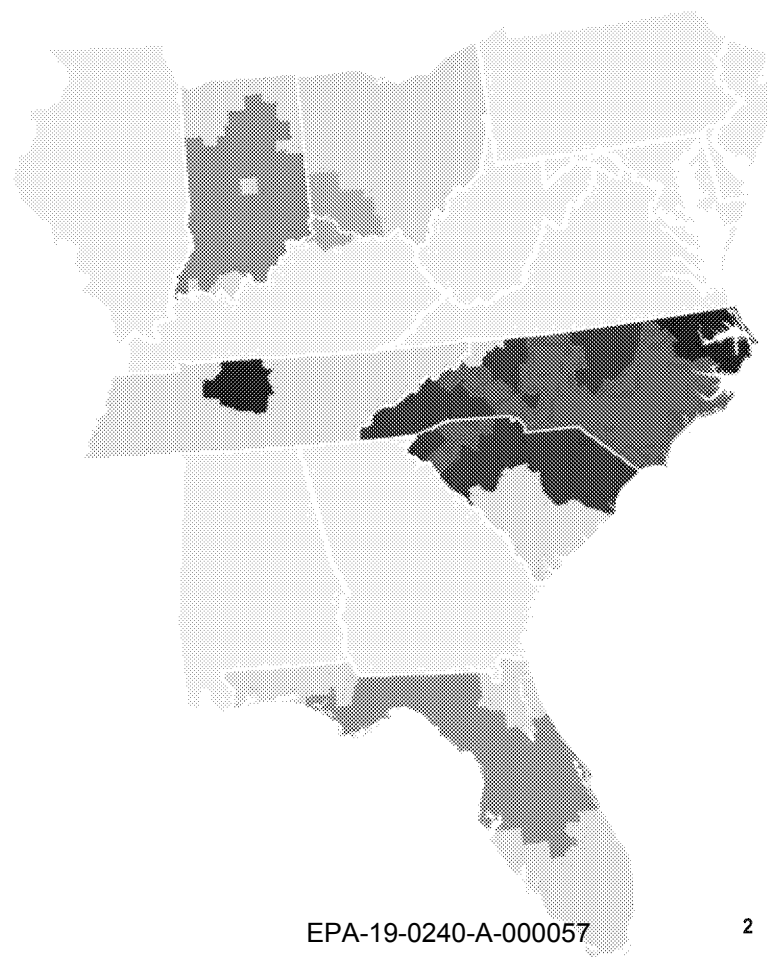
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# Duke Energy Overview

## Duke Energy Service Territory

- Duke Energy is one of the largest electric holding companies in the U.S., with a regulated generating capacity of more than 52,000 MW.
- Our regulated utility operations provide electricity to approximately 24 million people located in six states.
- We provide regulated natural gas transmission and distribution services to approximately 1.6 million customers in the Carolinas, Tennessee, southwestern Ohio, and northern Kentucky.
- Duke Energy Renewables includes more than 3,000 MW of wind and solar generation across 15 states.
- Duke Energy is the owner and operator of the nation's largest regulated nuclear fleet.



## Overview of Duke Energy's Comments

- Duke Energy **supports EPA's efforts to repeal the Clean Power Plan and replace it** with a rule that provides more regulatory certainty for the industry. This certainty will allow us to continue to provide safe, reliable, and affordable energy for our customers.
- Duke Energy **supports the proposed Best System of Emission Reduction** in the ACE Rule as an appropriate interpretation of Clean Air Act Section 111 .
- We also **support EPA's proposed changes to the New Source Review (NSR)** program to provide certainty that actions taken to comply with the standards of performance do not present the risk of triggering NSR permitting requirements.
- Duke Energy **supports the proposed revisions to the existing 111(d) implementing regulations** to better harmonize with the statutory text.
- We have already reduced CO<sub>2</sub> emissions by 31% from 2005 levels and plan to reduce them by 40% by 2030. It is important that EPA acknowledges our strategic planning and investments to reduce emissions by allowing for compliance flexibility. This will help to reduce costs for customers.

■ In these slides, we provide some suggestions to make the final rule more cost-effective and workable.

## Best System of Emission Reduction (BSER)

- EPA has properly based the BSER on heat rate improvement measures that can be applied at an affected source. The proposed list of “candidate technologies” for states to use in establishing unit-specific standards of performance in a state plan is appropriate.
- EPA appropriately excluded carbon capture and storage (CCS) and co-firing from the BSER but should allow these technologies to be utilized for compliance.
  - We are retrofitting several coal-fired units to allow for co-firing of natural gas to take advantage of fuel price variability (coal and gas); however, this is not universally practical, efficient, or economic and we agree with EPA that co-firing should not be BSER.
- EPA has correctly not identified a BSER for combustion turbines (simple and combined-cycle)
  - Measures to improve turbine heat rates are unit- and manufacturer-specific and may not even be offered. Costs of such actions are often not well known.
  - If EPA does intend to establish a BSER for CTs and CCs, it must do so in a separate rulemaking.
- EPA has appropriately excluded IGCCs from applicability; EPA should additionally exclude steam generating units that exclusively burn natural gas.

## Compliance Flexibility

- Duke Energy supports policies that provide the incentive to reduce emissions in the most economically efficient way possible.
- EPA's previous allowance of flexible compliance mechanisms has resulted in significant emissions reductions at lower cost to customers. This has been allowed in other 111(d) rulemakings (e.g., EPA's emissions guidelines for large municipal waste combustors).
- Furthermore, CAA 111(d)(1)(B) specifically assigns the role of providing for the implementation and enforcement of the standards of performance to the states.
- For the ACE rule, nothing in EPA's source-specific establishment of the BSER precludes compliance being achieved using averaging or trading between sources.
- EPA should explicitly allow mechanisms such as averaging and trading between units at different facilities, so long as they are restricted to only affected EGUs of the same type.

# Title IV NOx Averaging Program Example

- The Title IV NOx Averaging Program is an example of a simple but cost-effective emissions averaging program.
- A limit would be established for each unit individually and averaging could be used to demonstrate compliance for a group of units.
- Companies could propose plans to cover their units in a given state.
- Averaging across multiple states is even possible provided that the state programs are compatible.
- Averaging plans could also accommodate credit for unit retirements.

GHG Averaging Plan Example with Credit Given for Retirements, etc.				
Plant Name	Unit ID#	Emission Limitation, lbs CO <sub>2</sub> / MWH	Actual Emissions Rate, lbs CO <sub>2</sub> / MWH	Annual Generation, MWH
Plant A	1	2,000	2,100	525,600
Plant A	2	2,000	2,000	788,400
Plant A	3	2,000	2,050	3,504,000
Plant B	1	1,950	1,925	4,292,400
Plant B	2	1,975	1,900	4,599,000
Plant C	1	2,100	2,175	1,095,000

Generation weighted annual emission rate averaged over the units if they are operated in accordance with the averaging plan

**1,976**

Generation weighted annual emission rate for the same units operated in compliance with their established limits

**1,985**

$$\frac{\sum_{i=1}^n (AEL_i \times GEN_i) - CO_2 \text{ credit}}{\sum_{i=1}^n GEN_i} \leq \frac{\sum_{i=1}^n (EL_i \times GEN_i)}{\sum_{i=1}^n GEN_i}$$

Where,

- EL<sub>i</sub> = Emission limit for unit i, in lbs CO<sub>2</sub>/ MWH
- AEL<sub>i</sub> = Averaging plan emission limit for unit i, in lbs CO<sub>2</sub>/ MWH
- GEN<sub>i</sub> = Generation for unit i, in MWH
- n = Number of units in averaging plan
- CO<sub>2</sub> credit = Amount of credit in tons given by a state for actions taken such as unit retirements, etc.

## Standards of Performance

- Standards of performance must be “achievable” for a given source, as required under CAA 111(a)(1): “...the degree of emission limitation achievable through the application of the best system of emission reduction...”
- EPA should provide guidance to allow states to establish standards of performance that are achievable. States should:
  - Consider representative historic operation as well as expected future operation.
  - Incorporate realistic assumptions on the effectiveness of HRI measures over time.
  - Consider the cost-effectiveness of HRI measures on units, particularly those with limited remaining useful life or low capacity factor. Provide guidance on cost per ton of CO<sub>2</sub> reduction, as EPA provided in the CPP.
  - Account for inherent variability in emission rates from increased cycling and load following due to the changing market role for coal units.
  - Address measurement uncertainty associated with continuous emission monitoring systems (CEMS) or other alternative forms of monitoring.

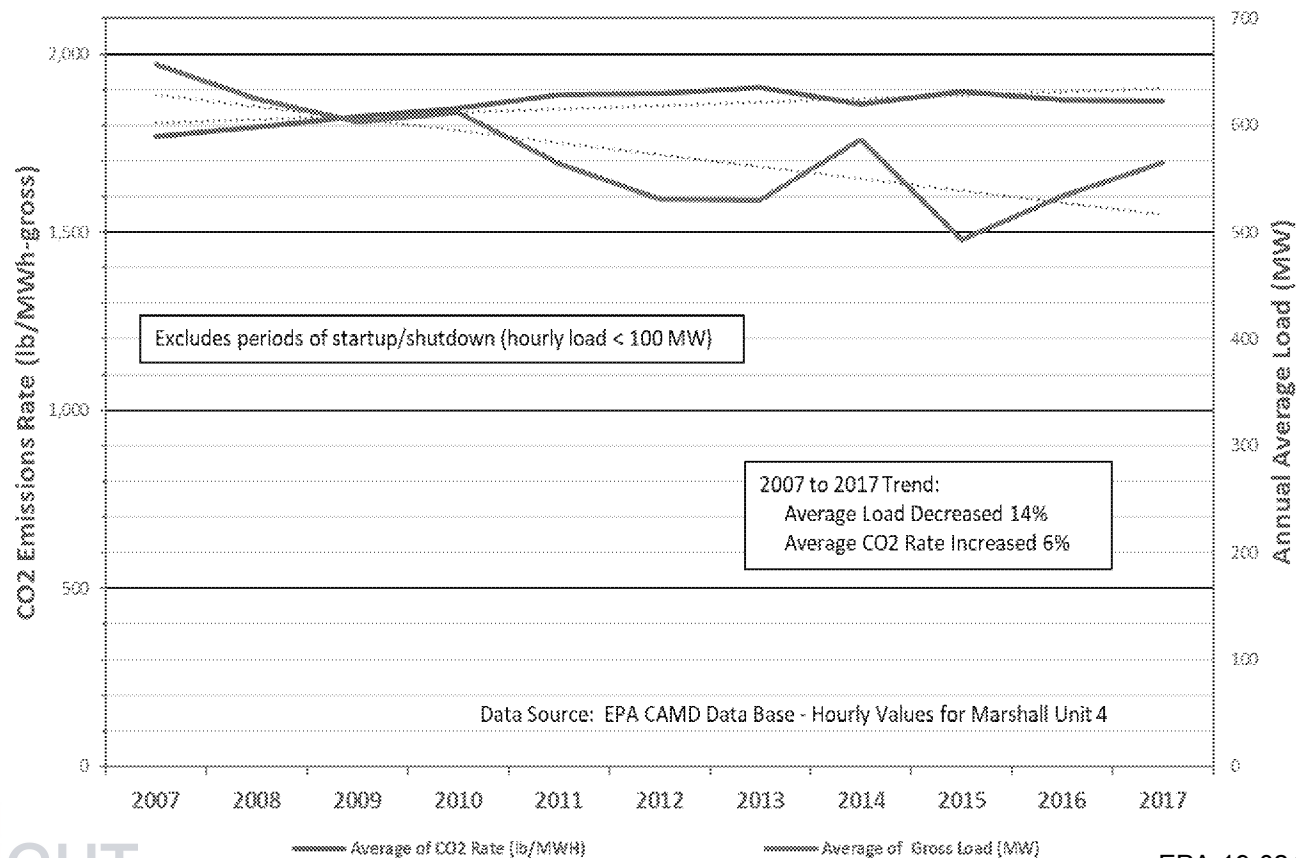
## Demonstration of Compliance

Standards of Performance must be set such that a source that is properly operated and maintained and has implemented appropriate HRI measures should be deemed in compliance.

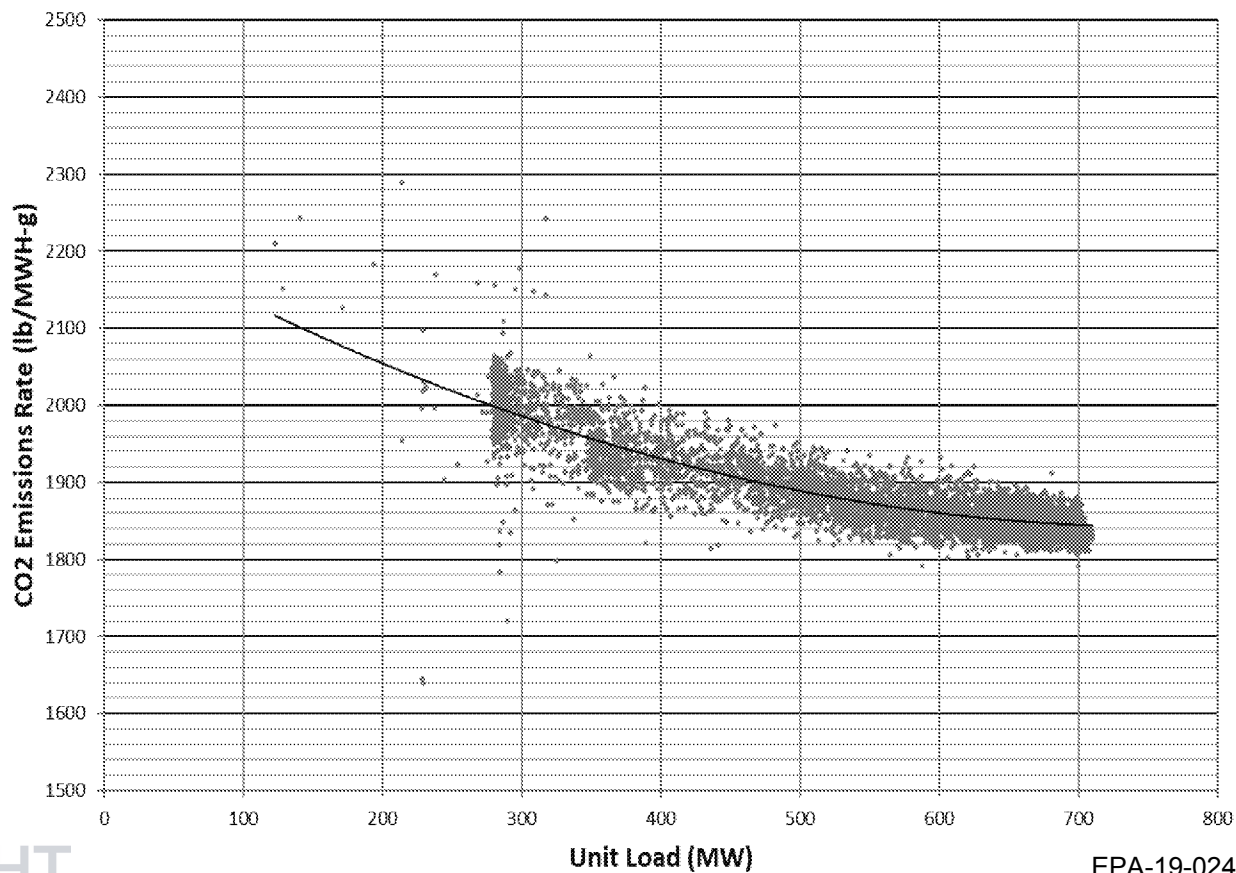
### Considerations

- Normal Variation in Performance: The standard should account for variation across the range from minimum to maximum load and statistical variability.
- Measurement Accuracy: CEMS measurement uncertainty may exceed the magnitude of HRI measures.
- Multiple Forms of the Standard: EPA should allow standards to be set that track average load.
- Long-Term Averaging Time: 5-year block to account for typical utility maintenance cycles.
- Alternative Measures: e.g., demonstrate compliance using periodic compliance tests at representative conditions.
- Provide a Backstop: Units that achieve the NSPS for modified/reconstructed EGUs should be in compliance.

# Marshall Unit 4 Annual Average Load and CO2 Emissions Rate



**Marshall Unit 4  
2017 Hourly Data  
(Excludes Data Below 100 MW)**

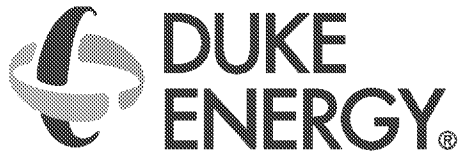


## New Source Review (NSR) Reform

- Duke Energy supports adopting a maximum achievable hourly emission test in conjunction with the ACE rule.
  - NSR litigation has targeted the types of heat rate improvement (HRI) projects that the ACE rule would *require*.
  - The test should apply to all EGU projects, not just those required by ACE.
  - An hourly test would work in conjunction with the current annual test.
- EPA should explicitly state that NSR will not apply to any emissions increases that are not caused by the project under consideration.
  - If there is no increase in hourly emissions attributable to the project, then the project is not considered a modification.
  - If an emissions increase occurs after an EGU efficiency project, NSR permitting is not required if the increase is caused by other independent factors, such as an increase in electric demand or fuel changes.

## Proposed NSR Alternatives

- Duke Energy strongly supports use of Alternative 3 – the maximum achievable hourly emissions test.
  - This alternative is based on the current NSPS maximum hourly achievable rate test and implicitly accounts for causation.
  - A project is not considered a modification if it does not change the fuel firing capability of a unit, or a maximum achievable emission rate.
- Duke Energy opposes alternatives 1 and 2.
  - These options do not address causation.
  - They require extensive and cumbersome emissions calculations and the analysis will be prone to false positives.



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## Appendix: Use of Process Steam for Compliance

- Cayuga Station has a contractual obligation to provide steam from either Unit 1 or Unit 2 to a neighboring industrial facility.
- The proposed rule does not address how states should account for an EGU that supplies part of the steam produced to an industrial process.
- EPA should provide guidance to states around the use of process steam for compliance for consistency among EGUs with similar operation.

Message

---

**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 11/16/2018 5:19:17 AM  
**To:** Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]  
**Subject:** RE: Attendees  
**Attachments:** Duke Energy ACE comments overview.pdf; Duke Energy ACE Comments (submitted to docket).pdf

Hi Alex-

Sorry for getting this to you so late. Attached is our presentation for our 11:30 am meeting with Mandy ("Duke Energy ACE Comments Overview"). I'll bring hard copies for those in the room.

I'm also attaching the comments that we submitted to the docket just as reference, but I do not plan to bring hard copies of that.

Let me know if you need anything else.

Thanks, Venu

---

**From:** Ghanta, Venu G  
**Sent:** Thursday, November 15, 2018 10:14 AM  
**To:** 'Dominguez, Alexander'  
**Subject:** RE: Attendees

Hi Alex-

I'll send along our presentation and a copy of our comments later today. Until then, here are the attendees for tomorrow's meeting:

In-person

Mike Geers  
Venu Ghanta  
Kris Knudsen

By phone

Derek Picklesimer  
Vicky Sullivan

Let me know if you need anything else.

Thanks, Venu

-----Original Message-----

From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]  
Sent: Thursday, November 15, 2018 9:48 AM  
To: Ghanta, Venu G  
Subject: Attendees

\*\*\* Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*

Hey Venu - Can you send me a list of attendees for tomorrow's meeting when you get a chance? Appreciate it

Sent from my iPhone

## Appointment

**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 10/9/2018 4:41:24 PM  
**To:** Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Alexander Dominguez (dominguez.alexander@epa.gov) [dominguez.alexander@epa.gov]; Benjamin Hengst (Hengst.Benjamin@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Burch, Julia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=27b0cd43b0404bab89aef0c8d08c165f-Burch, Julia]  
**CC:** Robin Moran [Moran.Robin@epa.gov]; William Charmley (charmley.william@epa.gov) [charmley.william@epa.gov]; Olechiw, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9f564b92ff96459ab606eb66e5892e2d-Olechiw, Michael]; Bolon, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f7c0684aaef44174801c0406b51034d2-Bolon, Kevin]  
**BCC:** DCRoomARN5415PolyPCTB/DC-ARN-OAR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user2c066053]  
**Subject:** Meeting: American Chemistry Council's Automotive Team  
**Attachments:** RE: ACC Automotive Team Meeting Request  
**Location:** 5530 WJCN  
**Start:** 10/11/2018 4:00:00 PM  
**End:** 10/11/2018 4:30:00 PM  
**Show Time As:** Busy

**Note: Room change to 5530 WJCN**

To: Mandy Gunasekara, Alex Dominguez, Ben Hengst, Julia Burch

Please forward calendar invite as necessary

**Outside Attendees:**

1. Greg Skelton, SABIC
2. James Carstensen, DuPont Performance Polymers
3. George Racine, ExxonMobil Chemical
4. Mark Minnichelli & Mark Washko, BASF
5. Sandra McClelland, Solvay
6. Dennis Deziel, Dow
7. Laura Chambers, LyondellBasell
8. Jackson Sutherland, Celanese
9. James Kahn, Braskem America
10. Tim Thiel, Covestro LLC
11. Jose Chirino, LANXESS Corporation
12. Gina Oliver, ACC
13. Barb Robertson, ACC
14. Booth Jameson, ACC
15. Tom Hollowell, ACC Consultant
16. Joel Roberson, Holland & Knight
17. Marissa Serafino, Holland & Knight

## Message

**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 10/9/2018 4:39:45 PM  
**To:** Marissa.Serafino@hklaw.com  
**CC:** joel.roberson@hklaw.com; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]  
**Subject:** RE: ACC Automotive Team Meeting Request

You are confirmed for a 30 minute meeting on Thursday, October 11<sup>th</sup> at 12:00PM with Mandy Gunasekara.

Directions and procedures to 1200 Pennsylvania Avenue NW:

**Metro:** If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn right. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, North Entrance.

**Taxi:** Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12th Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your right hand side with the escalators going down to the metro on your left – that is the North Lobby of the William Jefferson Clinton building.

**Security Procedures:** A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. If you are a foreign national entering on a non-US passport, please let us know in advance, as there is a separate clearance process.

Upon arrival, let the guards know that you were instructed to call 202-564-7404 for a security escort.

Feel free to contact me should you need any additional information.

Alex

---

**From:** Marissa.Serafino@hklaw.com [mailto:Marissa.Serafino@hklaw.com]  
**Sent:** Tuesday, October 9, 2018 12:18 PM  
**To:** Dominguez, Alexander <dominguez.alexander@epa.gov>  
**Cc:** joel.roberson@hklaw.com; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>  
**Subject:** RE: ACC Automotive Team Meeting Request

Hi Alexander,

We would like to confirm a meeting at noon on Thursday, October 11. I will send over the meeting participants ASAP.

Thanks,  
 Marissa

**Marissa Serafino | Holland & Knight**

Senior Public Affairs Advisor & Law Clerk

Holland & Knight LLP

800 17th Street N.W., Suite 1100 | Washington, DC 20006

Phone 202.469.5414 | Mobile 802.779.5647

marissa.serafino@hklaw.com | www.hklaw.com

---

[Add to address book](#) | [View professional biography](#)

---

**From:** Serafino, Marissa C (WAS - X75414)

**Sent:** Tuesday, October 09, 2018 11:31 AM

**To:** 'Dominguez, Alexander' <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>

**Cc:** Roberson, Joel E (WAS - X77264) <[joel.roberson@hklaw.com](mailto:joel.roberson@hklaw.com)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>

**Subject:** RE: ACC Automotive Team Meeting Request

Hi Alexander,

Thank you for getting back to us. We are checking with our member companies to see if noon works, and we will get back to you ASAP.

Best,  
Marissa

**Marissa Serafino | Holland & Knight**

Senior Public Affairs Advisor & Law Clerk

Holland & Knight LLP

800 17th Street N.W., Suite 1100 | Washington, DC 20006

Phone 202.469.5414 | Mobile 802.779.5647

marissa.serafino@hklaw.com | www.hklaw.com

---

[Add to address book](#) | [View professional biography](#)

---

**From:** Dominguez, Alexander [<mailto:dominguez.alexander@epa.gov>]

**Sent:** Tuesday, October 09, 2018 10:45 AM

**To:** Serafino, Marissa C (WAS - X75414) <[Marissa.Serafino@hklaw.com](mailto:Marissa.Serafino@hklaw.com)>

**Cc:** Roberson, Joel E (WAS - X77264) <[joel.roberson@hklaw.com](mailto:joel.roberson@hklaw.com)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>

**Subject:** RE: ACC Automotive Team Meeting Request

Marissa,

Mandy has availability Thursday, October 11<sup>th</sup> at 12:00 – 12:30, but the rest of her day is back-to-back. Please let me know if this works or we can look at alternative dates.

Best,

**Alex Dominguez**

Policy Advisor to the Assistant Administrator

Office of Air and Radiation

U.S. Environmental Protection Agency

D: 202-564-3164

M: 202-578-5985

---

**From:** [Marissa.Serafino@hklaw.com](mailto:Marissa.Serafino@hklaw.com) [<mailto:Marissa.Serafino@hklaw.com>]  
**Sent:** Friday, October 5, 2018 10:27 AM  
**To:** Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Dominguez, Alexander <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>  
**Cc:** [joel.roberson@hklaw.com](mailto:joel.roberson@hklaw.com)  
**Subject:** RE: ACC Automotive Team Meeting Request

Thanks, Mandy.

**Marissa Serafino | Holland & Knight**

Senior Public Affairs Advisor & Law Clerk

Holland & Knight LLP

800 17th Street N.W., Suite 1100 | Washington, DC 20006

Phone 202.469.5414 | Mobile 802.779.5647

[marissa.serafino@hklaw.com](mailto:marissa.serafino@hklaw.com) | [www.hklaw.com](http://www.hklaw.com)

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**From:** Gunasekara, Mandy [<mailto:Gunasekara.Mandy@epa.gov>]  
**Sent:** Friday, October 05, 2018 10:26 AM  
**To:** Serafino, Marissa C (WAS - X75414) <[Marissa.Serafino@hklaw.com](mailto:Marissa.Serafino@hklaw.com)>; Dominguez, Alexander <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>  
**Cc:** Roberson, Joel E (WAS - X77264) <[joel.roberson@hklaw.com](mailto:joel.roberson@hklaw.com)>  
**Subject:** RE: ACC Automotive Team Meeting Request

Hey Marissa,  
I'm looping in Alex to help with the logistics. Talk soon.  
Mandy

---

**From:** [Marissa.Serafino@hklaw.com](mailto:Marissa.Serafino@hklaw.com) [<mailto:Marissa.Serafino@hklaw.com>]  
**Sent:** Thursday, October 4, 2018 2:43 PM  
**To:** Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>  
**Cc:** [joel.roberson@hklaw.com](mailto:joel.roberson@hklaw.com)  
**Subject:** ACC Automotive Team Meeting Request

Hi Mandy,

I am writing with a meeting request on behalf of the American Chemistry Council's (ACC) Automotive Team for **Thursday, October 11**. The ACC Auto Team is a coalition of companies that manufacture innovative lightweight plastic and composite auto parts that make vehicles sold in the United States safer and more fuel efficient, including DowDuPont, LyondellBasell, and Solvay. U.S. light-duty automotive manufacturing is a growth sector for lightweight plastic and composite leading to the employment of over 55,000 high-skilled manufacturing jobs and generating over \$18 billion in revenue in the United States.

We wanted to introduce you to the ACC Auto Team members and discuss issues under EPA's jurisdiction related to the light-duty vehicle greenhouse gas emission standards, including the EPA-NHTSA proposed SAFE Vehicles Rule's treatment of lightweight plastic and composite manufacturing.

Is there a good time for you to meet with the group the morning of Thursday, October 11th?

Thank you,  
Marissa

**Marissa Serafino | Holland & Knight**

Senior Public Affairs Advisor & Law Clerk

Holland & Knight LLP

800 17th Street N.W., Suite 1100 | Washington, DC 20006

Phone 202.469.5414 | Mobile 802.779.5647

marissa.serafino@hklaw.com | [www.hklaw.com](http://www.hklaw.com)

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Appointment

---

**From:** Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]  
**Sent:** 10/2/2018 7:16:35 PM  
**To:** Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]; Harvey, Reid [Harvey.Reid@epa.gov]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]  
**Subject:** Meet with Frank Prager (Xcel) re: ACE proposal  
**Attachments:** RE: Meeting with Xcel Energy  
**Location:** WJC - N 5400  
**Start:** 10/9/2018 3:45:00 PM  
**End:** 10/9/2018 4:30:00 PM  
**Show Time As:** Busy

**TO:** Bill Wehrum, Mandy Gunasekara, Clint Woods, Peter Tsirigotis, Kevin Culligan, Sarah Dunham, Reid Harvey



RE: Meeting with  
Xcel Energy

## Message

**From:** Rakosnik, Delaney [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=274573739A9F446883072599086EDED-RAKOSNIK, D]  
**Sent:** 10/1/2018 6:46:56 PM  
**To:** Osse, Sherri G [sherri.g.osse@xcelenergy.com]  
**Subject:** RE: Meeting with Xcel Energy

Dear Sherri,

Frank is confirmed for a 45 min meeting with Bill Wehrum on 10/9 starting at 11:45am.

Directions and procedures to 1200 Pennsylvania Avenue NW:

**Metro:** If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn right. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, North Entrance.

**Taxi:** Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12<sup>th</sup> Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your right hand side with the escalators going down to the metro on your left – that is the North Lobby of the William Jefferson Clinton building.

**Security Procedures:** A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. If you are a foreign national entering on a non-US passport, please let us know in advance, as there is a separate clearance process.

Upon arrival, let the guards know that you were instructed to call 202-564-7404 for a security escort. Please send me a list of participants in advance of the meeting and feel free to contact me should you need any additional information.

Many thanks,

Delaney Rakosnik  
 Staff Assistant  
 Immediate Office of the Assistant Administrator  
 Office of Air and Radiation, USEPA  
 Room 5406A, 1200 Pennsylvania Avenue NW  
 Washington, DC 20460  
 Voice: 202-564-2229  
 Email: [rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)

---

**From:** Osse, Sherri G [<mailto:sherri.g.osse@xcelenergy.com>]  
**Sent:** Monday, October 1, 2018 12:56 PM  
**To:** Rakosnik, Delaney <[rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)>  
**Subject:** FW: Meeting with Xcel Energy

Hi!! Frank would love the opportunity meet with Bill on 10/12 at 10:00 am. However, he is supposed to depart DC on 10/11 after being there all week. Is there any availability on 10/9 or the morning of 10/11? Can you please let me know? Thank you so much for your help and have a great day!!

---

**From:** Prager, Frank P  
**Sent:** Friday, September 28, 2018 1:52 PM  
**To:** Osse, Sherri G  
**Subject:** FW: Meeting with Xcel Energy

Let's talk

---

**From:** Rakosnik, Delaney [<mailto:rakosnik.delaney@epa.gov>]  
**Sent:** Friday, September 28, 2018 12:09 PM  
**To:** Prager, Frank P  
**Cc:** Atkinson, Emily; Lewis, Josh  
**Subject:** RE: Meeting with Xcel Energy

**XCEL ENERGY SECURITY NOTICE:** This email originated from an external sender. Exercise caution before clicking on any links or attachments and consider whether you know the sender. For more information please visit the [Phishing page on XpressNET](#).

Hi Frank,

Bill can meet on Oct 12th at 10am. How does that work for your calendar?

Many thanks,

Delaney Rakosnik  
 Staff Assistant  
 Immediate Office of the Assistant Administrator  
 Office of Air and Radiation, USEPA  
 Room 5406A, 1200 Pennsylvania Avenue NW  
 Washington, DC 20460  
 Voice: 202-564-0935  
 Email: [rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)

---

**From:** Prager, Frank P [<mailto:Frank.Prager@XCELENERGY.COM>]  
**Sent:** Thursday, September 27, 2018 1:56 PM  
**To:** Wehrum, Bill <[Wehrum.Bill@epa.gov](mailto:Wehrum.Bill@epa.gov)>  
**Cc:** [Rakosnik@Epa.gov](mailto:Rakosnik@Epa.gov); William Bumpers <[william.bumpers@bakerbotts.com](mailto:william.bumpers@bakerbotts.com)>  
**Subject:** Meeting with Xcel Energy

Bill, it was great to see you yesterday at the Clean Air Act Advisory Committee meeting. Thanks for spending so much time at the meeting and providing such a detailed overview of your Clean Air Act Agenda. It's clear you're going to be very busy.

Thanks also for offering to sit down with us to talk about Xcel Energy's views regarding the Affordable Clean Energy rule and in particular the proposal's treatment of state flexibility. We would very much appreciate the opportunity. Please let me know some dates and times that might work for you.

Thanks!

Frank Prager  
Xcel Energy Inc.  
303-294-2108  
Cell: 303-898-8391

Appointment

---

**From:** Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]  
**Sent:** 8/21/2017 5:57:30 PM  
**To:** Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Inge, Carolyn [Inge.Carolyn@epa.gov]; Lovell, Will (William) [lovell.william@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; 'Paul Balserak' [pbalserak@steel.org]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander [dominguez.alexander@epa.gov]  
**Subject:** Follow-up Meeting with Iron & Steel re: NSR  
**Location:** DCRoomARN3500/OPEI  
**Start:** 8/21/2017 7:30:00 PM  
**End:** 8/21/2017 8:30:00 PM  
**Show Time As:** Busy

Directions: Please use the William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station. Please arrive 10 minutes prior to the meeting with photo IDs to clear Security.

EPA Contact: For an escort from Security to the meeting call (202) 564-4332; for all other matters call Robin Kime (202)564-6587.

Objective: Discuss the NSR program.

Contact:

Paul Balserak

Vice President, Environment

American Iron and Steel Institute

25 Massachusetts Ave. NW, Suite 800

Washington, DC 20001

**Ex. 6** (office)  
(mobile)

## Message

**From:** Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]  
**Sent:** 10/24/2018 5:45:28 PM  
**To:** Pagano (US), Peter A [peter.a.pagano@boeing.com]  
**CC:** Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Rogers (US), Steven [Steven.Rogers@boeing.com]  
**Subject:** RE: Background Document for tomorrow's meeting - Comments on Draft NSR Guidance

Peter,

I was pleased to be introduced to you yesterday evening as well. I appreciate your sending along these comments.

While I suspect those from our OAQPS staff who will be participating tomorrow were generally aware of Boeing's views and concerns, having already reviewed the NEDA/CAP comments, for purposes of preparation for tomorrow I took the liberty a short while ago of bringing those comments to our staff's specific attention.

I look forward to meeting with you and your colleague Steven tomorrow.

**David S. Harlow**  
**Senior Counsel**  
**Immediate Office of the Assistant Administrator**  
**Office of Air and Radiation, USEPA**  
**WJC-N Room 5409K**  
**1200 Pennsylvania Avenue NW**  
**Washington, DC 20460**  
**202-564-1233**  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)

---

**From:** Pagano (US), Peter A [mailto:peter.a.pagano@boeing.com]  
**Sent:** Wednesday, October 24, 2018 10:15 AM  
**To:** Harlow, David <harlow.david@epa.gov>  
**Cc:** Lewis, Josh <Lewis.Josh@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Rogers (US), Steven <Steven.Rogers@boeing.com>  
**Subject:** RE: Background Document for tomorrow's meeting - Comments on Draft NSR Guidance

David

Good to meet you last nite. As discussed, just wanted to send along the coalition comments on the draft guidance which we will refer to in our meeting tomorrow. The key point is in section (f) on page 5. See you tomorrow.

All the best,  
 Peter A. Pagano  
 Director, Environment  
 The Boeing Company  
 703-414-6486  
 Email: [peter.a.pagano@boeing.com](mailto:peter.a.pagano@boeing.com)

---

**From:** Harlow, David [<mailto:harlow.david@epa.gov>]  
**Sent:** Tuesday, October 16, 2018 5:24 PM  
**To:** Pagano (US), Peter A <[peter.a.pagano@boeing.com](mailto:peter.a.pagano@boeing.com)>  
**Cc:** Lewis, Josh <[Lewis.Josh@epa.gov](mailto:Lewis.Josh@epa.gov)>; Atkinson, Emily <[Atkinson.Emily@epa.gov](mailto:Atkinson.Emily@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>  
**Subject:** RE: Meeting Request - Draft NSR Guidance Document

Peter,

Yes, I would be delighted to meet with you and your colleague to discuss this issue. Of the three days you mentioned, either the 24<sup>th</sup> or the 25<sup>th</sup> would work well for me. My calendar for October 23<sup>rd</sup> is already a bit full. But either that Wednesday or Thursday should be fine.

If you would be so good as to reach out to Emily Atkinson, our Office Manager here in the OAR Immediate Office who, among her many duties, also keeps track of my calendar – e.g., scheduling such meeting, and making sure that the relevant people from our program office are invited to participate – I would appreciate it. She will be able to work with you to find a mutually agreeable time next week for us to meet.

Thank you.

**David S. Harlow**  
**Senior Counsel**  
**Immediate Office of the Assistant Administrator**  
**Office of Air and Radiation, USEPA**  
**WJC-N Room 5409K**  
**1200 Pennsylvania Avenue NW**  
**Washington, DC 20460**  
**202-564-1233**  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)

---

**From:** Pagano (US), Peter A [<mailto:peter.a.pagano@boeing.com>]  
**Sent:** Tuesday, October 16, 2018 3:31 PM  
**To:** Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>  
**Cc:** Gunasekara, Mandy (EPW) <[Mandy\\_Gunasekara@epw.senate.gov](mailto:Mandy_Gunasekara@epw.senate.gov)>; Lewis, Josh <[Lewis.Josh@epa.gov](mailto:Lewis.Josh@epa.gov)>  
**Subject:** Meeting Request - Draft NSR Guidance Document

Hi David,

I was referred to you by Mandy regarding the Draft Guidance Memorandum: Interpreting “Adjacent” for New Source Review and Title V Source Determination in All Industries Other Than Oil and Gas. Boeing has worked with a number of coalition partners to provide comments to the FR notice. We would appreciate the opportunity to meet with you next week to review some of the comments to provide a context on how the final guidance document could affect Boeing’s future manufacturing operations. My colleague Steven Rogers and I would appreciate the opportunity to meet with you on either October 23, 24 or 25. Sorry for the short notice but next week Steven will be in DC from the west coast and we would like for him to be able to participate in person. Please let me know what may be convenient times for you on any of those days. Thank you in advance for your consideration of our request.

All the best,

Peter A. Pagano  
Director, Environment  
The Boeing Company  
703-414-6486  
Email: [peter.a.pagano@boeing.com](mailto:peter.a.pagano@boeing.com)

## Message

**From:** Culligan, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5AB7EF4A59614FD4B4485668C42818C7-KCULLIGA]  
**Sent:** 10/22/2018 8:52:20 PM  
**To:** Mike Cashin (MP) [MCASHIN@mnpower.com]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]  
**Subject:** RE: ALLETE (Minnesota Power) Meeting request to discuss Affordable Clean Energy Act provisions with EPA staff

Mike,

Thanks for the follow-up. I can meet tomorrow at 2:30. I will relay anything we chat about to Mandy. Best way to get here is to come to the entrance by the Federal Triangle metro (on 12<sup>th</sup>). Use the north entrance (away from mall/towards Pennsylvania Avenue). Guard will call up to my desk. You'll need my number (202)564-0611.

- Kevin

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**From:** Mike Cashin (MP) [mailto:MCASHIN@mnpower.com]  
**Sent:** Friday, October 19, 2018 4:18 PM  
**To:** Culligan, Kevin <Culligan.Kevin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>  
**Subject:** ALLETE (Minnesota Power) Meeting request to discuss Affordable Clean Energy Act provisions with EPA staff

Kevin and Mandy,

Minnesota Power (ALLETE) has been reviewing EPA's proposed Affordable Clean Energy rule and would like to meet with EPA staff to discuss some areas that we see warrant particular consideration by EPA as ACE rulemaking proceeds. I plan on being in Washington, DC to attend an event, "Insights into Environmental Law & Policy: A Conversation with Key Regulators" the afternoon of Wednesday, October 24 and welcome the opportunity to meet with EPA when in DC around that timing. I can also adjust my travel plans to accommodate EPA available during other times.

One area of concern with the proposed ACE rule is proper recognition and integration of how heat rate shifts across the load range of an operating unit. Shifting from lowest turndown load to peak load to support energy demand under ISO economic dispatch has become an increasingly frequent component for supporting electricity grid, energy and reliability support needs. Another concern stems from how utilities' expanding deployment of variable renewable energy resources is translating to the need to provide for compensating measures by more frequently varying the output of load following resources, essential to supporting reliability. When we meet, I will share information about a "Load Bins" approach we are refining that can address ACE compliance management during load range shifts on our generating units and related heat rate performance, with and without the overlay of ACE BSER Heat Rate Improvement measures. I will also share information about how more granular (e.g. sub one minute to five minute) operational data and modeling is exhibiting a more pronounced need for preserving load following capability on generating units that, previous to larger scale variable renewable energy deployment, were more typically operating for base load.

I look forward to the opportunity to meet soon.

Best regards,

Mike

*Michael G. Cashin*  
 Michael G. Cashin, PE  
 Environmental Policy Advisor

Minnesota Power (ALLETE)  
30 W. Superior St.  
Duluth, MN 55802  
[mcashin@mnpower.com](mailto:mcashin@mnpower.com)  
218-355-3339  
Cell 218-349-9463

## Message

**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 11/2/2018 1:13:45 PM  
**To:** David Beaudreau [dbeaudreau@dclrs.com]  
**Subject:** RE: CPA Affordable Clean Energy Rule

David – Please let me know if any of the times below would work for a call.

Wednesday, Nov 7<sup>th</sup> – 11:00; 4:00

Friday, Nov 9<sup>th</sup> – 3:00; 3:30

Moving Mandy to bcc.

Best,

**Alex Dominguez**

Policy Advisor to the Assistant Administrator  
 Office of Air and Radiation  
 U.S. Environmental Protection Agency

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**From:** David Beaudreau [mailto:dbeaudreau@dclrs.com]  
**Sent:** Thursday, November 1, 2018 11:07 AM  
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>  
**Cc:** Dominguez, Alexander <dominguez.alexander@epa.gov>  
**Subject:** Re: CPA Affordable Clean Energy Rule

Thanks!

Sent from my iPhone

On Oct 31, 2018, at 10:27 PM, Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)> wrote:

Hi David,  
 Thank you for sending your comments and I'd be happy to discuss. I've ccd Alex Dominguez who can help follow up regarding the logistics.  
 I look forward to talking soon.  
 Best,  
 Mandy

Sent from my iPhone

On Oct 31, 2018, at 8:46 PM, David Beaudreau <[dbeaudreau@dclrs.com](mailto:dbeaudreau@dclrs.com)> wrote:

Hi Mandy,

Hope you're well. I wanted to attach the comments the Composite Panel Association submitted yesterday regarding the ACE rule.

I wanted to use this opportunity to check in with you to see if there are any developments with respect to the carbon neutrality issue. When Jackson Morrill and I met with you a while ago EPA was still determining how to best address the carbon neutrality policy change that had been recently made.

Would you have time for a conference call with me and Jackson for sometime next week?

Thanks for considering this request.

David G. Beaudreau Jr.

Senior Vice President

D.C. Legislative and Regulatory Services, Inc.

2221 S. Clark Street, 11<sup>th</sup> Floor

Arlington, VA 22202

Main: 202-872-8440

Direct: 202-872-6884

[www.dclrs.com](http://www.dclrs.com)



The content image001.jpg of type has been blocked.

<Composite Panel Association Comments.pdf>

Appointment

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**From:** Rakosnik, Delaney [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=274573739A9F446883072599086EDED-RAKOSNIK, D]  
**Sent:** 10/2/2018 7:20:41 PM  
**To:** Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Tsirigotis, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c179f3ccb4fadb48e3ae85563f132-PTSIRIGO]; Culligan, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ab7ef4a59614fd4b4485668c42818c7-KCULLIGA]; Dunham, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a9444681441e4521ad92ae7d42919223-SDUNHAM]; Harvey, Reid [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f8ec31caad5048db83f210032847de32-RHARVE02]  
**Subject:** Meet with Frank Prager (Xcel) re: ACE proposal  
**Attachments:** RE: Meeting with Xcel Energy  
**Location:** WJC - N 5400  
**Start:** 10/9/2018 3:45:00 PM  
**End:** 10/9/2018 4:30:00 PM  
**Show Time As:** Tentative

**TO:** Bill Wehrum, Mandy Gunasekara, Clint Woods, Peter Tsirigotis, Kevin Culligan, Sarah Dunham, Reid Harvey



RE: Meeting with  
Xcel Energy

## Message

**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 9/20/2018 3:47:03 PM  
**To:** Baer, Louis [LBaer@cement.org]  
**CC:** Franklin, Charles [CFranklin@cement.org]; Derby, Rachel [RDerby@cement.org]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]  
**Subject:** RE: PCA Environment & Energy Committee Meeting - October 4  
**Attachments:** Event Information Form.docx

Louis – Thursday, October 4<sup>th</sup> from 10:00 – 10:30 works perfectly. If you could please fill out and return the attached form that would be great. I'm also including Isabel in our communications office in case she need any additional information. Anything else just let me know.

Best,  
 Alex

**Alex Dominguez**

Policy Analyst to the Principal Deputy  
 Office of Air and Radiation  
 U.S. Environmental Protection Agency  
 D: 202-564-3164

M: Ex. 6

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**From:** Baer, Louis [mailto:LBaer@cement.org]  
**Sent:** Tuesday, September 18, 2018 1:17 PM  
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>  
**Cc:** Franklin, Charles <CFranklin@cement.org>; Derby, Rachel <RDerby@cement.org>; Dominguez, Alexander <dominguez.alexander@epa.gov>  
**Subject:** RE: PCA Environment & Energy Committee Meeting - October 4

Thank you very much Mandy! We look forward to hearing from you.

I'll coordinate with Alex on timing. Thanks.

Best,  
 Louis

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Louis A. Baer, Esq., CPEA  
 Director/Assistant Counsel, Government Affairs  
 Portland Cement Association  
 1150 Connecticut Avenue NW, Suite 500  
 Office: 202-719-1981  
 Cell: Ex. 6  
[lbaer@cement.org](mailto:lbaer@cement.org)  
[www.cement.org](http://www.cement.org)

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**From:** Gunasekara, Mandy [<mailto:Gunasekara.Mandy@epa.gov>]  
**Sent:** Tuesday, September 18, 2018 1:09 PM  
**To:** Baer, Louis <[LBaer@cement.org](mailto:LBaer@cement.org)>  
**Cc:** Franklin, Charles <[CFranklin@cement.org](mailto:CFranklin@cement.org)>; Derby, Rachel <[RDerby@cement.org](mailto:RDerby@cement.org)>; Dominguez, Alexander <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>  
**Subject:** Re: PCA Environment & Energy Committee Meeting - October 4

Hi Louis,  
I'd be happy to speak to the group. I'm ccing Alex to help with the logistics.  
Best,  
Mandy

Sent from my iPhone

On Sep 18, 2018, at 10:44 AM, Baer, Louis <[LBaer@cement.org](mailto:LBaer@cement.org)> wrote:

Mandy,

I am following up on our invitation last week to speak at PCA's Environment & Energy Committee Meeting on Thursday, October 4. Our meeting will take place at the National Association of Manufacturers (733 10<sup>th</sup> St. NW 7<sup>th</sup> Floor). Please let us know if you available that day for 30 minutes and our group would love to hear you speak on the current priorities and progress you are making at the Office of Air & Radiation. Thank you!

Best,  
Louis

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Louis A. Baer, Esq., CPEA  
Director/Assistant Counsel, Government Affairs  
Portland Cement Association  
1150 Connecticut Avenue NW, Suite 500  
Office: 202-719-1981  
Cell: Ex. 6  
[lbaer@cement.org](mailto:lbaer@cement.org)  
[www.cement.org](http://www.cement.org)

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**From:** Baer, Louis  
**Sent:** Monday, September 10, 2018 4:25 PM  
**To:** 'gunasekara.mandy@epa.gov' <[gunasekara.mandy@epa.gov](mailto:gunasekara.mandy@epa.gov)>  
**Cc:** Franklin, Charles <[CFranklin@cement.org](mailto:CFranklin@cement.org)>; Derby, Rachel <[RDerby@cement.org](mailto:RDerby@cement.org)>  
**Subject:** PCA Environment & Energy Committee Meeting - October 4

Mandy,

We hope you are doing well and having a great summer. Thank you again for meeting with us and our members in April to discuss the air issue priorities for the cement industry.

PCA's Fall Environment & Energy Committee Meeting is being held here in D.C. at the National Association of Manufacturers (733 10<sup>th</sup> St. NW) on Thursday, October 4 and we would like to invite you to speak to our members. Our members would be very interested to hear further about the progress you and your colleagues at the Office of Air & Radiation are making on various air issues, such as the NAAQS and the recently proposed Affordable Clean Energy Rule.

Are you available to speak to our members at 10 AM on Thursday, October 4 for 30 minutes? The Environment & Energy Committee Meeting will have around 30-35 people and consist of senior environmental and government affairs leaders at our member companies. Our schedule is flexible so if there is a better time on Thursday, October 4, we can accommodate your schedule.

Please let us know if you are available to speak. We look forward to hearing from you.

Best,  
Louis

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Louis A. Baer, Esq., CPEA  
Director/Assistant Counsel, Government Affairs  
Portland Cement Association  
1150 Connecticut Avenue NW, Suite 500  
Office: 202-719-1981  
Cell: **Ex. 6**  
[lbaer@cement.org](mailto:lbaer@cement.org)  
[www.cement.org](http://www.cement.org)

## Message

**From:** Wilcox, Jahan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=88FD588E97D3405D869BCAE98D391984-WILCOX, JAH]  
**Sent:** 5/16/2018 1:25:23 PM  
**To:** Jennifer A. Dlouhy [jdlouhy1@bloomberg.net]; Smith, Abby [asmith@bloombergenvironment.com]  
**CC:** Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]  
**Subject:** Hey

Today, at 10:15 AM ET, Bill Wehrum will testify at the U.S. House of Representatives Committee on Energy and Commerce's hearing on "Legislation Addressing New Source Review Permitting Reform."

Below is our release that will be going out at 10:00 AM ET.

You are welcome to report on this now if you want.

Jahan

## EPA's New Source Review Actions in Review

\*\*\*\*\*

Consistent with President Trump's priorities and under Administrator Pruitt's direction, the U.S. Environmental Protection Agency (EPA) is taking steps to clarify, revise, and streamline preconstruction requirements under the New Source Review (NSR) permitting program. EPA's current NSR permitting process has imposed significant costs and regulatory uncertainty, serving as an impediment to or even resulting in the cancellation of projects which would otherwise improve reliability, efficiency, and safety of facilities.

Under the leadership of Administrator Pruitt, EPA is committed to improving the NSR process and, to date, has pursued that goal through the issuance of a number of guidance memoranda that are intended to provide clarity and reduce delay. The long-term goal of EPA's NSR reform and improvement initiative is to have in place permitting requirements that will no longer operate to stifle a company's ability to invest in the latest and greatest technologies or make continued improvements to their operations, all the while protecting the environment as is mandated under the Clean Air Act.

On Wednesday, May 16, 2018, the U.S. House of Representatives Committee on Energy and Commerce will hold a hearing entitled "Legislation Addressing New Source Review Permitting Reform." Given his unique expertise and expansive knowledge of the NSR

Program, William Wehrum, Assistant Administrator for the Office of Air and Radiation, U.S. EPA, will testify at Wednesday's hearing.

More information, including a live stream of the hearing, is available at:

<https://energycommerce.house.gov/hearings/legislation-addressing-new-source-review-permitting-reform/>

**December 7, 2017. New Source Review Preconstruction Permitting Requirements: Enforceability and Use of the Actual-to-Projected-Actual Applicability Test in Determining Major Modification Applicability.**

Link to memorandum [here](#)

**Summary**

- ✧ Clarifies that, under the existing regulatory language, so long as a company complies with the procedural requirements for making a preconstruction “projected actual emissions” analysis, then EPA will not come in and “second guess” that analysis.

**January 25, 2018. Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act.**

Link to memorandum [here](#)

**Summary**

- ✧ Withdraws the 1995 “once-in-always-in” policy that determined that any facility subject to major source hazardous air pollutant (“HAP”) standards must always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced the facility’s potential to emit hazardous pollutants below the applicable 10 tons per year/25 tons per year “major source” thresholds.
- ✧ With the new guidance, which is based on the plain language of the Clean Air Act, sources of hazardous air pollutants previously classified as “major sources” may be reclassified as “area” sources (that is, any source of HAP emissions that is not a “major source”) when the facility limits its potential to emit below major source thresholds.

**ICYMI**

- ✧ **Senate Environment and Public Works Chairman Sen. John Barrasso (R-WY):** “The EPA’s decision today is consistent with President Trump’s agenda to keep America’s air clean and our economy growing,” Barrasso said. “Withdrawal of this policy means

manufacturers, oil and gas operations, and other types of industrial facilities will have greater incentive to reduce emissions. Now these companies can help protect the environment without wasting time and money on unnecessary red tape.” ([The Washington Examiner](#), 1/25/18)

- ✧ **Senator Shelley Moore Capito, Chairman of the Senate Environment and Public Works Committee’s Clean Air and Nuclear Safety Subcommittee:** “Maintaining the outdated and misguided ‘once-in-always-in’ policy just doesn’t make sense. Rather than reward facilities for doing the right thing and working to decrease emissions, it makes it harder for them to innovate and improve operations,” Senator Capito said. “By deciding to withdraw this counterproductive policy, Administrator Pruitt is once again proving that the Trump administration is committed to rolling back harmful regulations that do nothing but hold back companies and industries that are critical to our economy and already working to improve environmental quality.” ([Senator Shelley Moore Capito](#), 1/25/18)

### **March 13, 2018. Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program.**

Link to memorandum [here](#)

#### **Summary**

- ✧ Provides EPA’s interpretation of the existing New Source Review regulations with respect to the accounting of emissions changes from a project under Step 1 of the NSR applicability process.
- ✧ Clarifies that the current NSR regulations already allow companies to consider projected decreases in emissions of air pollution, as well as projected emissions increases, during Step 1, rather than requiring that the source undergo time-consuming and potentially complicated “contemporaneous netting” under Step 2, in order to take account of those emissions decreases.

#### **ICYMI**

- ✧ **Ross Eisenberg, Vice President, National Association of Manufacturers:** “There is no good reason for the permitting process to create unnecessary obstacles for a manufacturer that wants to make efficiency upgrades or install modern pollution control equipment. In fact, manufacturers have been leaders in this space, working to successfully reduce emissions while adding to the overall economy. The NAM has made NSR a priority in its regulatory reform filings with the EPA and the White House. It’s clear that Administrator Pruitt agrees and is committed to fixing the permitting process for manufacturers.” ([National Association of Manufacturers](#), 3/13/18)
- ✧ **Howard Feldman, Senior Director of Regulatory and Scientific Affairs, American Petroleum Institute:** “EPA’s practical clarification to the language in the NSR regulations is a positive step that will help reduce uncertainty in the permitting process, while protecting public health,” said Feldman. “Balanced, effective NSR

regulations allow our industry to invest in new facilities and energy infrastructure in ways that improve environmental performance.” ([American Petroleum Institute](#), 3/13/18)

**April 30, 2018. Meadowbrook Energy and Keystone Landfill Common Control Analysis.**

Link to analysis [here](#)

**Summary**

- While EPA’s longstanding practice and view that determinations of common control are fact-specific and should continue to be made by permitting authorities on a case-by-case bases, EPA believes it should realign its approach to common control determinations to minimize the potential for entities to be held responsible for decisions of other entities over which they have no power or authority.
- For reasons discussed at length in the analysis, EPA believes clarity and consistency can be restored to source determinations if the assessment of “control” for title V and NSR permitting purposes focuses on the power or authority of one entity to dictate decisions of the other that could affect the applicability of, or compliance with, relevant air pollution regulatory requirements.

Additional information on EPA’s New Source Review Permitting Program is available at: <https://www.epa.gov/nsr>

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U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue Northwest  
Washington, D.C. 20004



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## Message

**From:** Wilcox, Jahan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=88FD588E97D3405D869BCAE98D391984-WILCOX, JAH]  
**Sent:** 5/16/2018 1:24:47 PM  
**To:** valerie.volcovici@thomsonreuters.com; timothy.gardner@thomsonreuters.com; Richard.Valdmanis@thomsonreuters.com; David.Shepardson@thomsonreuters.com  
**CC:** Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]  
**Subject:** Sending this to you first.

Today, at 10:15 AM ET, Bill Wehrum will testify at the U.S. House of Representatives Committee on Energy and Commerce's hearing on "Legislation Addressing New Source Review Permitting Reform."

Below is our release that will be going out at 10:00 AM ET.

You are welcome to report on this now if you want.

Jahan

## EPA's New Source Review Actions in Review

Consistent with President Trump's priorities and under Administrator Pruitt's direction, the U.S. Environmental Protection Agency (EPA) is taking steps to clarify, revise, and streamline preconstruction requirements under the New Source Review (NSR) permitting program. EPA's current NSR permitting process has imposed significant costs and regulatory uncertainty, serving as an impediment to or even resulting in the cancellation of projects which would otherwise improve reliability, efficiency, and safety of facilities.

Under the leadership of Administrator Pruitt, EPA is committed to improving the NSR process and, to date, has pursued that goal through the issuance of a number of guidance memoranda that are intended to provide clarity and reduce delay. The long-term goal of EPA's NSR reform and improvement initiative is to have in place permitting requirements that will no longer operate to stifle a company's ability to invest in the latest and greatest technologies or make continued improvements to their operations, all the while protecting the environment as is mandated under the Clean Air Act.

On Wednesday, May 16, 2018, the U.S. House of Representatives Committee on Energy and Commerce will hold a hearing entitled "Legislation Addressing New Source Review Permitting Reform." Given his unique expertise and expansive knowledge of the NSR

Program, William Wehrum, Assistant Administrator for the Office of Air and Radiation, U.S. EPA, will testify at Wednesday's hearing.

More information, including a live stream of the hearing, is available at:

<https://energycommerce.house.gov/hearings/legislation-addressing-new-source-review-permitting-reform/>

**December 7, 2017. New Source Review Preconstruction Permitting Requirements: Enforceability and Use of the Actual-to-Projected-Actual Applicability Test in Determining Major Modification Applicability.**

Link to memorandum [here](#)

**Summary**

- ✧ Clarifies that, under the existing regulatory language, so long as a company complies with the procedural requirements for making a preconstruction “projected actual emissions” analysis, then EPA will not come in and “second guess” that analysis.

**January 25, 2018. Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act.**

Link to memorandum [here](#)

**Summary**

- ✧ Withdraws the 1995 “once-in-always-in” policy that determined that any facility subject to major source hazardous air pollutant (“HAP”) standards must always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced the facility’s potential to emit hazardous pollutants below the applicable 10 tons per year/25 tons per year “major source” thresholds.
- ✧ With the new guidance, which is based on the plain language of the Clean Air Act, sources of hazardous air pollutants previously classified as “major sources” may be reclassified as “area” sources (that is, any source of HAP emissions that is not a “major source”) when the facility limits its potential to emit below major source thresholds.

**ICYMI**

- ✧ **Senate Environment and Public Works Chairman Sen. John Barrasso (R-WY):** “The EPA’s decision today is consistent with President Trump’s agenda to keep America’s air clean and our economy growing,” Barrasso said. “Withdrawal of this policy means

manufacturers, oil and gas operations, and other types of industrial facilities will have greater incentive to reduce emissions. Now these companies can help protect the environment without wasting time and money on unnecessary red tape.” ([The Washington Examiner](#), 1/25/18)

- ✧ **Senator Shelley Moore Capito, Chairman of the Senate Environment and Public Works Committee’s Clean Air and Nuclear Safety Subcommittee:** “Maintaining the outdated and misguided ‘once-in-always-in’ policy just doesn’t make sense. Rather than reward facilities for doing the right thing and working to decrease emissions, it makes it harder for them to innovate and improve operations,” Senator Capito said. “By deciding to withdraw this counterproductive policy, Administrator Pruitt is once again proving that the Trump administration is committed to rolling back harmful regulations that do nothing but hold back companies and industries that are critical to our economy and already working to improve environmental quality.” ([Senator Shelley Moore Capito](#), 1/25/18)

### **March 13, 2018. Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program.**

Link to memorandum [here](#)

#### **Summary**

- ✧ Provides EPA’s interpretation of the existing New Source Review regulations with respect to the accounting of emissions changes from a project under Step 1 of the NSR applicability process.
- ✧ Clarifies that the current NSR regulations already allow companies to consider projected decreases in emissions of air pollution, as well as projected emissions increases, during Step 1, rather than requiring that the source undergo time-consuming and potentially complicated “contemporaneous netting” under Step 2, in order to take account of those emissions decreases.

#### **ICYMI**

- ✧ **Ross Eisenberg, Vice President, National Association of Manufacturers:** “There is no good reason for the permitting process to create unnecessary obstacles for a manufacturer that wants to make efficiency upgrades or install modern pollution control equipment. In fact, manufacturers have been leaders in this space, working to successfully reduce emissions while adding to the overall economy. The NAM has made NSR a priority in its regulatory reform filings with the EPA and the White House. It’s clear that Administrator Pruitt agrees and is committed to fixing the permitting process for manufacturers.” ([National Association of Manufacturers](#), 3/13/18)
- ✧ **Howard Feldman, Senior Director of Regulatory and Scientific Affairs, American Petroleum Institute:** “EPA’s practical clarification to the language in the NSR regulations is a positive step that will help reduce uncertainty in the permitting process, while protecting public health,” said Feldman. “Balanced, effective NSR

regulations allow our industry to invest in new facilities and energy infrastructure in ways that improve environmental performance.” ([American Petroleum Institute](#), 3/13/18)

**April 30, 2018. Meadowbrook Energy and Keystone Landfill Common Control Analysis.**

Link to analysis [here](#)

**Summary**

- While EPA’s longstanding practice and view that determinations of common control are fact-specific and should continue to be made by permitting authorities on a case-by-case bases, EPA believes it should realign its approach to common control determinations to minimize the potential for entities to be held responsible for decisions of other entities over which they have no power or authority.
- For reasons discussed at length in the analysis, EPA believes clarity and consistency can be restored to source determinations if the assessment of “control” for title V and NSR permitting purposes focuses on the power or authority of one entity to dictate decisions of the other that could affect the applicability of, or compliance with, relevant air pollution regulatory requirements.

Additional information on EPA’s New Source Review Permitting Program is available at: <https://www.epa.gov/nsr>

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Washington, D.C. 20004



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## Message

**From:** Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]  
**Sent:** 11/30/2018 2:43:51 PM  
**To:** Michelle Bloodworth [mbloodworth@americaspower.org]  
**CC:** Paul Bailey [pbailey@americaspower.org]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]  
**Subject:** RE: Speaker Request

Yes – en route

Sent from my iPhone

---

**From:** Michelle Bloodworth <mbloodworth@americaspower.org>  
**Sent:** Friday, November 30, 2018 9:42 AM  
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>  
**Cc:** Paul Bailey <pbailey@americaspower.org>; Dominguez, Alexander <dominguez.alexander@epa.gov>  
**Subject:** Re: Speaker Request

Just confirming you are coming.

Sent from my iPhone

On Nov 27, 2018, at 10:23 PM, Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)> wrote:

I think I can make this work. I'm ccing Alex to help.

Sent from my iPhone

On Nov 27, 2018, at 6:04 PM, Michelle Bloodworth <[mbloodworth@americaspower.org](mailto:mbloodworth@americaspower.org)> wrote:

Mandy,

I know this is short notice but would you be available to speak on the ACE Rule this Friday on a panel at ALEC. It's from 10:00 until 11:15 a.m. I'm on the panel along with Allison Wood of UARG. Clint was going to speak but is going to be out of town. You'd be perfect and we could really use someone from EPA.

Please let me know as soon as you can. I can give you the details if you are available.

Thanks,  
Michelle

Michelle Bloodworth  
 President and CEO  
 4601 N. Fairfax Drive, Suite 1050 • Arlington, VA 22203  
 T: 202.459.4803 • M: Ex. 6  
[mbloodworth@americaspower.org](mailto:mbloodworth@americaspower.org)

<image001.png>

## Message

**From:** Rakosnik, Delaney [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=274573739A9F446883072599086EDED-RAKOSNIK, D]  
**Sent:** 11/26/2018 3:24:02 PM  
**To:** Richard Westerdale [richard.westerdale@jet-inc.com]; Humphreys, Hayly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4f4a7b4aeaf143bf806b0dd5b7884324-Humphreys,]  
**CC:** Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]  
**Subject:** RE: Coal Industry Opportunity

Hi Rick,

We will discuss this with the team and get back to you.

Thanks,  
 Delaney

Delaney Rakosnik  
 Staff Assistant  
 Immediate Office of the Assistant Administrator  
 Office of Air and Radiation, USEPA  
 Room 5406A, 1200 Pennsylvania Avenue NW  
 Washington, DC 20460  
 Voice: 202-564-0935  
 Email: [rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)

---

**From:** Richard Westerdale [mailto:richard.westerdale@jet-inc.com]  
**Sent:** Sunday, November 25, 2018 9:09 AM  
**To:** Humphreys, Hayly <humphreys.hayly@epa.gov>  
**Cc:** Rakosnik, Delaney <rakosnik.delaney@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>  
**Subject:** RE: Coal Industry Opportunity

Hayly / Delaney –

I trust you all had a restful Thanksgiving holiday with friends and family.

We had a good meeting with the NSC last Tuesday and Francis Brooke encouraged JET to meet with the EPA and he solicited our input on improvements to NSR.

The reason for this note is to follow up with each of you to see if we can schedule a meeting on either 12/5 or 12/6 with Acting Administrator Wheeler and Assistant Administrator Wehrum. JNG would like to cover the following topics during our meeting:

- Introduce JET and demonstrate the value to the U.S. of implementation.
- Review JET's acquisition strategy and business models for coal fired power plants.
- Discuss the President's Executive Order to streamline project approvals for major infrastructure projects.
- Solicit an update on EPA's efforts to reform New Source Review and discuss potential enhancements.

Please let me know if either date works for you all. I appreciate your continued assistance in this regard.

Thanks,

**Richard (Rick) W. Westerdale II**

**Senior Vice President**

Tel: +1 (201) 641-3868, ext. 222

Email: [richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)

Website: [www.jet-inc.com](http://www.jet-inc.com)

Address: 65 Challenger Rd, Suite 420 Ridgefield Park, NJ, 07660, USA



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What you choose to give life today will determine what life will give you tomorrow.

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**From:** Humphreys, Hayly <[humphreys.hayly@epa.gov](mailto:humphreys.hayly@epa.gov)>  
**Sent:** Monday, November 19, 2018 10:28 AM  
**To:** Richard Westerdale <[richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)>  
**Cc:** Rakosnik, Delaney <[rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)>  
**Subject:** RE: Coal Industry Opportunity

Hi Rick,

Unfortunately, the Acting Administrator is unavailable to meet on Wednesday morning as well. Apologies for the inconvenience.

Best,  
Hayly

---

**Hayly Humphreys**  
Office of the Administrator  
U.S. EPA

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**From:** Richard Westerdale <[richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)>  
**Sent:** Monday, November 19, 2018 10:14 AM  
**To:** Humphreys, Hayly <[humphreys.hayly@epa.gov](mailto:humphreys.hayly@epa.gov)>  
**Cc:** Rakosnik, Delaney <[rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)>  
**Subject:** RE: Coal Industry Opportunity

Hayly / Dalaney –

Thank you for your quick response. We welcome a meeting with Assistant Administrator Wehrum. If helpful, we could meet with Acting Administrator Wheeler on Wednesday morning if his schedule permits. Please confirm availability for either meeting.

Thanks,

**Richard (Rick) W. Westerdale II**

**Senior Vice President**

Tel: +1 (201) 641-3868, ext. 222

Email: [richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)

Website: [www.jet-inc.com](http://www.jet-inc.com)

Address: 65 Challenger Rd, Suite 420 Ridgefield Park, NJ, 07660, USA



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What you choose to give life today will determine what life will give you tomorrow.

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**From:** Humphreys, Hayly <[humphreys.hayly@epa.gov](mailto:humphreys.hayly@epa.gov)>  
**Sent:** Monday, November 19, 2018 10:03 AM  
**To:** Richard Westerdale <[richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)>  
**Cc:** Rakosnik, Delaney <[rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)>  
**Subject:** RE: Coal Industry Opportunity

Hi Rick,

Unfortunately, Acting Administrator Wheeler's schedule is very hectic tomorrow. I apologize for the inconvenience. I am looping in my colleague, Delaney Rakosnik, in office of Air and Radiation to see if our Assistant Administrator, Bill Wehrum, is available.

Best,  
Hayly

---

**Hayly Humphreys**  
Office of the Administrator  
U.S. EPA

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**From:** Richard Westerdale <[richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)>  
**Sent:** Monday, November 19, 2018 9:36 AM  
**To:** Humphreys, Hayly <[humphreys.hayly@epa.gov](mailto:humphreys.hayly@epa.gov)>  
**Subject:** Coal Industry Opportunity

Hayly -

It was good speaking with you this morning. I am just trying to confirm our meeting tomorrow with the EPA. I have been working with Mandy to determine if it is possible to meet with Acting Administrator Wheeler and his staff tomorrow. We have confirmed a meeting with the White House and National Security Council on 11/20 @ 11 AM.

As background, JET's technology is well aligned with the Administration's efforts on the coal industry as a whole.

JET is an international corporation and leading provider of advanced desulfurization technology for the power, oil and natural gas sectors. Our patented technology is a game changer and converts harmful emissions, specifically Sulphur dioxide, into a value-added fertilizer. This is a proven technology with over 300 current applications internationally. JET has on-going negotiation with more than 50 coal fired power plants in the U.S. By implementing JET's technology, the useful life of these power plants will be extended by a minimum of 10 to 15 years while meeting the most stringent emission standards. This is good news for the coal industry!

What this means for the United States:

- **Total investment:** \$16B
- **Annual Revenues:** \$22B
- **Annual Taxes:** \$883M
- **Direct Jobs:** 14,250

JET's technology ensures reliable and stable base load operations for local power grids.



On a personal note, I recently left the U.S. Department of State to join JNG. While I will miss serving our country and the incredible people I have had the privilege of working with throughout the years, I am excited to join JNG as Senior Vice President.

Thanks,

**Richard (Rick) W. Westerdale II**

**Senior Vice President**

Tel: +1 (201) 641-3868, ext. 222

Email: [richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)

Website: [www.jet-inc.com](http://www.jet-inc.com)

Address: 65 Challenger Rd, Suite 420 Ridgefield Park, NJ, 07660, USA



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**From:** Brooke, Francis J. EOP/WHO EOP / Ex. 6

**Sent:** Friday, November 2, 2018 4:45 PM

**To:** Richard Westerdale <[richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)>

**Cc:** Bottari, Joseph U. EOP/WHO <[Joseph.U.Bottari](mailto:Joseph.U.Bottari)> EOP / Ex. 6

**Subject:** RE: Introduction / Meeting

Thanks Richard,

We should be able to make the 19 or 20 work on our end. Adding Joe to help coordinate. Also, good luck meeting with Administrator Pruitt, will definitely be hard to get the planets to align on that one!

Best,

Francis

---

**From:** Richard Westerdale <[richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)>

**Sent:** Friday, November 2, 2018 11:09 AM

**To:** Brooke, Francis J. EOP/WHO EOP / Ex. 6

**Subject:** [EXTERNAL] FW: Introduction / Meeting

Francis –

I trust you are well. I reached out to Landon and he suggested I contact you. Our Chairman would like to come to Washington and brief NSC staff on the potential benefits to the U.S. from JET's business. We would also like to discuss the necessary project approvals and the President's executive order to streamline reviews for infrastructure projects.

For awareness, we are also scheduling meetings with Sec. Perry's office as well as Administrator Pruitt's office. If you have additional suggestions for meetings within the inter-agency, it would be appreciated. I have two windows of opportunity and wanted to check schedule – Thurs / Fri (11/8-11/9) or Mon/Tues (11/19-11/20). We are also scheduling meetings with EPA Administrator Pruitt and the NSC during this time, so as you can imagine, it is quite challenging to get the planets to align.

As background:

I recently left the U.S. Department of State to join JNG. While I will miss serving our country and the incredible people I have had the privilege of working with throughout the years, I am excited to join JNG as Senior Vice President.

JNG is an international corporation and leading provider of advanced desulfurization technology for the power, oil and natural gas sectors. Specifically, our patented technology is a game changer and converts harmful emissions, specifically Sulphur dioxide, into a value added fertilizer (see attached brochure). This is a proven technology with over 300 current applications internationally. We are currently targeting more than 40 coal fired power plants (negotiations on-going) in the U.S. for implementation. Through implementation of our technology, the useful life of these power plants will be extended by 10 to 15 years while meeting the new emission standards. This is a game changer! Here are a just a few of the highlights of JET's U.S. Value Proposition:

- Total investment: \$16B
- Annual Revenues: \$22B
- Annual Taxes: \$883M
- Direct Jobs: 14,250

I look forward to your response and meeting in person.

Thanks,

**Richard (Rick) W. Westerdale II**

**Senior Vice President**

Tel: +1 (201) 641-3868, ext. 222

Email: [richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)

Website: >[www.jet-inc.com](http://www.jet-inc.com)<

Address: 65 Challenger Rd, Suite 420 Ridgefield Park, NJ, 07660, USA




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**From:** Derentz, Landon R. EOP/NSC [REDACTED] **EOP / Ex. 6**  
**Sent:** Thursday, November 1, 2018 5:35 PM  
**To:** Richard Westerdale <[richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)>  
**Subject:** RE: Introduction / Meeting

Rick – I'm happy to meet up. On the domestic issues, Francis is likely your best in: [Francis.J.Brooke](#) [REDACTED] **EOP / Ex. 6**

The morning of Thursday, November 8, is generally good for me. Let me know what works for you.

---

**From:** Richard Westerdale <[richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)>  
**Sent:** Tuesday, October 30, 2018 2:27 PM  
**To:** Derentz, Landon R. EOP/NSC [REDACTED] **EOP / Ex. 6**  
**Subject:** [EXTERNAL] Introduction / Meeting

Landon -

I trust you are well. As you know, I recently left the U.S. Department of State to join JNG.

JNG is an international corporation and leading provider of advanced desulfurization technology for the power, oil and natural gas sectors. Specifically, our patented technology is a game changer and converts harmful emissions, specifically Sulphur dioxide, into a value added fertilizer (see attached brochure). This is a proven technology with over 300 current applications internationally. We are currently targeting more than 40 coal fired power plants in the U.S. for implementation. The initial assessment is that through implementation of our technology, the useful life of these power plants will be extended by 10 to 15 years while meeting the new emission standards.

Our Chairman would like to come to Washington and brief NSC staff on the potential benefits to the U.S. We would also like to discuss the necessary project approvals and the President's executive order to streamline reviews for infrastructure projects. Thus, I would like to propose a meeting on Thursday, November 9th.

For awareness, we are also scheduling meetings with Sec. Perry's office as well as Administrator Pruitt's office. If you have additional suggestions for meetings within the inter-agency, it would be appreciated.

I look forward to your response and meeting in person.

Thanks,

Richard (Rick) W. Westerdale II  
 Senior Vice President  
 Tel: +1 (201) 641-3868, ext. 222  
 Email: [richard.westerdale@jet-inc.com](mailto:richard.westerdale@jet-inc.com)  
 Website: >>[www.jet-inc.com](http://www.jet-inc.com)<<

Address: 65 Challenger Rd, Suite 420 Ridgefield Park, NJ, 07660, USA



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## Message

**From:** Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]  
**Sent:** 10/26/2018 9:39:40 PM  
**To:** David Schwietert [DSchwietert@autoalliance.org]  
**CC:** Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Wheeler, Andrew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=17a1669ef5b54fba8cb457845308787e-Wheeler, An]; Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]  
**Subject:** Re: Auto Alliance comments

Thanks, David.

Sent from my iPhone

On Oct 26, 2018, at 4:57 PM, David Schwietert <[DSchwietert@autoalliance.org](mailto:DSchwietert@autoalliance.org)> wrote:

I wanted to ensure you had the following preview of the more expansive comments that will be submitted by the close of the comment period today.

I will also ensure you get the 15-page summary and the related comments once they are transmitted.

Dave

## Automakers Call for CAFE/GHG Progress Reflecting Marketplace

*The Auto Alliance will be submitting comments by the end of today (Friday, Oct. 26) to NHTSA and EPA on the Safer Affordable Fuel-efficient (SAFE) Vehicles Rule for MYs 2021-2026. Here is a preview of those comments, and the full executive summary will be available on Monday, Oct. 29:*

“The Alliance has consistently and actively supported a single national program covering all 50 states that spurs continued improvements in fuel economy and greenhouse gas (GHG) emissions while recognizing marketplace realities such as consumer choice, fuel prices and technology costs.

“Automakers have invested substantially in technologies so consumers can visit dealerships and select from approximately 500 models that achieve 30 MPG or more (highway), including 45 hybrid-electric and over 50 plug-in electric and hydrogen fuel cell models.

“With respect to fuel economy and GHG emissions, automakers are committed to ongoing progress in a journey with no end date. That commitment has not wavered. At the same time, future government mileage and emission standards need to align with marketplace realities. The CAFE and GHG programs evaluate automakers based on a sales-weighted average of vehicles sold, not on models offered for sale.

“The Alliance appreciates NHTSA and EPA issuing a joint Proposed Rule that incorporates the latest data and will consider standards for MYs 2021 to 2026. Many of the projections and assumptions upon which MYs 2022-2025 standards were based have proven to be incorrect; the

level of technology modeled by the agencies in 2012 is insufficient to meet the standards, and the actual level of technology that industry projects is needed to comply with the standards is misaligned with market realities. Data from the past few years have also disproven assumptions regarding the market share of cars and trucks, future gas price projections, and the adoption rate of alternative powertrain vehicles.

“The Alliance remains committed to supporting One National Program. This program was developed in cooperation by NHTSA, EPA, California and automakers, and was based on the shared recognition that harmonized standards that maintained the authorities of all agencies were the best path forward.

“The Alliance urges the federal government to set achievable future standards that continue to advance environmental and energy goals while recognizing marketplace realities, incentivizing innovative new technologies, harmonizing government programs, maintaining a strong auto manufacturing sector, and keeping new vehicles affordable so more Americans can replace older vehicles with newer models that are cleaner, safer, and more energy-efficient.”

# # #

David Schwietert  
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<image002.png>

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## Message

**From:** Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]  
**Sent:** 8/2/2018 12:37:38 PM  
**To:** sscales3@ford.com  
**Subject:** FW: EPA and U.S. DOT Propose Fuel Economy Standards for MY 2021-2026 Vehicles

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**From:** EPA Press Office [mailto:press=epa.gov@cmail20.com] **On Behalf Of** EPA Press Office  
**Sent:** Thursday, August 2, 2018 8:30 AM  
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>  
**Subject:** EPA and U.S. DOT Propose Fuel Economy Standards for MY 2021-2026 Vehicles

## U.S. EPA and DOT Propose Fuel Economy Standards for MY 2021-2026 Vehicles

**WASHINGTON** (August 2, 2018) — Today, the U.S. Environmental Protection Agency (EPA) and U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) released a notice of proposed rulemaking, the *Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks* (SAFE Vehicles Rule), to correct the national automobile fuel economy and greenhouse gas emissions standards to give the American people greater access to safer, more affordable vehicles that are cleaner for the environment.

The SAFE Vehicles Rule is the next generation of the Congressionally mandated Corporate Average Fuel Economy (CAFE) and Light-Duty Vehicle Greenhouse Gas Emissions Standards. This Notice of Proposed Rulemaking (NPRM) is the first formal step in setting the 2021-2026 Model Year (MY) standards that must be achieved by each automaker for its car and light-duty truck fleet.

In today's proposal, EPA and NHTSA are seeking public comment on a wide range of regulatory options, including a preferred alternative that locks in MY 2020 standards through 2026, providing a much-needed time-out from further, costly increases. The agencies' preferred alternative reflects a balance of safety, economics, technology, fuel conservation, and pollution reduction. It is anticipated to prevent thousands of on-road fatalities and injuries as compared to the standards set forth in the 2012 final rule. The joint proposal initiates a process to establish a new 50-state fuel economy and tailpipe carbon dioxide emissions standard for passenger cars and light trucks covering MY 2021 through 2026.

“We are delivering on President Trump’s promise to the American public that his administration would address and fix the current fuel economy and greenhouse gas emissions standards,” **said EPA Acting Administrator Andrew Wheeler**. “Our proposal aims to strike the right regulatory balance based on the most recent information and create a 50-state solution that will enable more Americans to afford newer, safer vehicles that pollute less. More realistic standards can save lives while continuing to improve the environment. We value the public’s input as we engage in this process in an open, transparent manner.”

“There are compelling reasons for a new rulemaking on fuel economy standards for 2021-2026,” **said Secretary Elaine L. Chao**. “More realistic standards will promote a healthy economy by bringing newer, safer, cleaner and more fuel-efficient vehicles to U.S. roads and we look forward to receiving input from the public.”

The current standards have been a factor in the rising cost of new automobiles to an average of \$35,000 or more—out of reach for many American families. Indeed, compared to the preferred alternative in the proposal, keeping in place the standards finalized in 2012 would add \$2,340 to the cost of owning a new car, and impose more than \$500 billion in societal costs on the U.S. economy over the next 50 years.

Additionally, a 2018 [government study](#) by NHTSA shows new model year vehicles are safer, resulting in fewer deaths and injuries when involved in accidents, as compared to older models. Therefore, the Administration is focused on correcting the current standards that restrict the American people from being able to afford newer vehicles with more advanced safety features, better fuel economy, and associated environmental benefits.

On April 2, 2018, EPA issued the Mid-Term Evaluation Final Determination which found that the MY 2022-2025 GHG standards are not appropriate and should be revised. For more than a year, the agencies worked together to extensively analyze current automotive and fuel technologies, reviewed economic conditions and projections, and consulted with other federal agency partners to ensure the most reliable and accurate analysis possible.

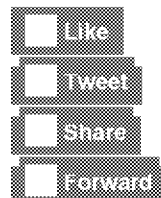
EPA and NHTSA are seeking public feedback to ensure that all potential impacts concerning today’s proposal are fully considered and hope to issue a final rule this winter.

The public will have 60 days to provide feedback once published at the Federal Register. Details can be found at NHTSA’s website [here](#) and EPA’s website [here](#).

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## Message

**From:** Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]  
**Sent:** 12/8/2017 9:02:11 PM  
**To:** Timothy Cama [tcama@thehill.com]  
**CC:** Wilcox, Jahan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88fd588e97d3405d869bcae98d391984-Wilcox, Jah]  
**Subject:** Re: Flagging an EPA item for you ...

Bill is recused from DTE matters, because of his former firms involvement, and has complied with recusal requirements. As such, I have been the point person on DTE matters from OARs perspective. I would also note this memo has been in the works since well before Bill was confirmed. The first draft from our technical team dates back to early October following a September meeting.

Broadly speaking on NSR reform and forward looking policy decisions, Bill has been involved in those conversations.

The ongoing case is a separate issue. I will note that the latest DOJ/SG brief to the Court on the pending case included a footnote alluding to this very memo. So while it is separate issue, the Court has been on notice of the forthcoming policy shift from EPA. When my computer starts working- I'll send you that brief!

Sent from my iPhone

On Dec 8, 2017, at 12:23 PM, Timothy Cama <[tcama@thehill.com](mailto:tcama@thehill.com)> wrote:

Two little things I forgot to ask:

- Was Wehrum involved in this? I mostly ask because his old firm represented DTE.
- Does this amount to changing EPA's position in the ongoing case, or is that a separate decision?

Thanks.

--

Timothy Cama, Staff writer  
 The Hill  
 (202) 695-6245  
 Secure: [timothy.cama@protonmail.com](mailto:timothy.cama@protonmail.com)

On Fri, Dec 8, 2017 at 2:11 PM, Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)> wrote:

Thanks, Jahan. Tim – I'll call you at 2:45.

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**From:** Wilcox, Jahan  
**Sent:** Friday, December 8, 2017 2:07 PM  
**To:** Timothy Cama <[tcama@thehill.com](mailto:tcama@thehill.com)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>  
**Subject:** RE: Flagging an EPA item for you ...

I am adding Mandy to this email. She is a policy expert who can talk and walk you through this. Please cite it as Background or Background from an EPA official.

**From:** Timothy Cama [<mailto:tcama@thehill.com>]  
**Sent:** Friday, December 8, 2017 12:41 PM  
**To:** Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)>  
**Subject:** Re: Flagging an EPA item for you ...

Alright, no problem. Thanks.

--

Timothy Cama, Staff writer

The Hill

(202) 695-6245

Secure: [timothy.cama@protonmail.com](mailto:timothy.cama@protonmail.com)

On Fri, Dec 8, 2017 at 12:18 PM, Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)> wrote:

I just flagged it for Politico after calling you.

**From:** Timothy Cama [<mailto:tcama@thehill.com>]  
**Sent:** Friday, December 8, 2017 12:17 PM  
**To:** Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)>  
**Subject:** Re: Flagging an EPA item for you ...

Actually could you give me another hour or two to see if I'm interested/can translate it before sending it elsewhere? If it's not too late.

--  
Timothy Cama, Staff writer

The Hill

(202) 695-6245

Secure: timothy.cama@protonmail.com

On Thu, Dec 7, 2017 at 5:20 PM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

FYI ... Wanted to make sure you got this memo and EPA statement.

### **Draft Desk Statement**

### **Dec. 7 DTE/NSR Memo**

To provide certainty to companies as facilities plan projects that may change or expand their operations, EPA administrator Scott Pruitt has issued a memo to the agency's 10 regional administrators clarifying the EPA's current understanding of certain elements of Clean Air Act's New Source Review (NSR) regulations and when they should apply to projects at facilities that may increase emissions.

NSR regulations require facilities to project, before beginning work, whether a construction project will cause a significant emissions increase. If the construction project results in a significant emissions increase and NSR applies, then the facility must take extra steps to control emissions before beginning work on the project. If a project does not result in a significant emissions increase - and does not trigger NSR - a facility must still provide notice of the project to either the EPA or the state designated regulator. As an accountability mechanism for the relied upon justifications that NSR does not apply, a facility must record and report actual emissions every year for either five or 10 years after a project is complete.

Specifically, the memo discusses issues raised by litigation and addresses EPA's current intended approach concerning 1) consideration of post-project emissions management in determining NSR applicability; 2) the role of post-project actual emissions in major modification applicability; 3) the EPA oversight and enforcement of pre-project NSR applicability analyses involving the actual-to-projected-actual applicability test; and 4) the role of EPA-approved state and local NSR programs in implementing NSR requirements.

The primary purpose of the memo is to clarify that so long as a company complies with the procedural requirements of a preconstruction analysis, then EPA will not second-guess that analysis.

Providing certainty and clarity on this issue is an important first step to encouraging investments across all industrial sectors to move forward with incorporating new technologies and improving operational efficiencies yielding both economic and environmental benefits.

The memo is not a final agency action and does not change or substitute for any law or regulation. Nor is it legally enforceable.

Depending upon individual facts and circumstances, it may not apply to a particular situation. More information: <https://www.epa.gov/nsr>

## Message

**From:** Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]  
**Sent:** 5/3/2018 7:30:51 PM  
**To:** Ryan N. Modlin [Ryan.Modlin@o-i.com]  
**CC:** Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]  
**Subject:** Re: IECA Meeting Follow Up

Ryan,

Thanks so much – I really appreciated the opportunity to speak with you. I had mentioned [this April 12 presidential memorandum](#) (relevant section 9 below) but you can also find our recent NSR/PSD activity & memos at: <https://www.epa.gov/nsr/new-source-review-policy-and-guidance-document-index>

Copied here is David Harlow, our Office's Senior Counsel and resident guru on these issues. Would you mind sending a link to the PSD guidance you mentioned, and we may be able to follow up with any related actions?

Thanks!

Clint  
 202.564.6562

Sec. 9. Review of Rules, Guidance, Memoranda, and Procedures Relating to State Implementation Plans and Permitting. The Administrator shall evaluate EPA's existing rules, guidance, memoranda, and other public documents relating to the implementation of NAAQS, including documents that relate to the submission and consideration of preconstruction permit applications. The Administrator shall, consistent with law, determine whether any such documents should be revised or rescinded to ensure more timely permitting decisions under the NAAQS. Any resulting revisions or rescissions should seek, among other things, to provide States with additional implementation flexibility. The Administrator should also evaluate the adequacy of existing internal review procedures to determine whether they can be improved to ensure prompt evaluation and timely action on new and pending SIPs and permit applications.

On May 2, 2018, at 8:58 AM, Ryan N. Modlin <[Ryan.Modlin@o-i.com](mailto:Ryan.Modlin@o-i.com)> wrote:

Clint,

Thank you for presenting at the IECA meeting about what the EPA is doing on issues that affect manufacturers – all great information. You highlighted a specific EPA memo dated April 12 yesterday – may I get a copy of that memo? I am very interested in what the EPA plans to do about the PSD guidance.

Thank you in advance,

Ryan

Ryan N. Modlin  
 Vice President  
 North American Government Affairs  
 O-I Public Affairs

1401 Wilson Blvd., Suite 1005  
Arlington, VA 22209

Phone: (202) 384 2358  
[www.o-i.com](http://www.o-i.com)  
<image001.png>

## Message

**From:** DeLuca, Isabel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B021C30CBEE4637A7C7CA683E5E044A-IDELUCA]  
**Sent:** 2/5/2019 9:36:59 PM  
**To:** Paul Bailey [pbailey@americaspower.org]  
**CC:** Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]  
**Subject:** FW: NARUC Feb 12  
**Attachments:** Event Form OAR AA.DOCX

Hi Paul,

I'm following up on your recent discussion with Clint regarding the invitation for Bill to speak at NARUC next week. As Clint noted, Bill is interested in this opportunity – to make sure we have all the details for scheduling, is there someone who could fill out the attached speaker request form?

Many thanks,

Isabel DeLuca  
 Deputy Director of Communications  
 Office of Air and Radiation, US EPA  
 (202) 343-9247

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**From:** Woods, Clint <woods.clint@epa.gov>  
**Sent:** Monday, February 04, 2019 5:43 PM  
**To:** Paul Bailey <pbailey@americaspower.org>  
**Cc:** Lewis, Josh <Lewis.Josh@epa.gov>  
**Subject:** RE: NARUC Feb 12

Paul,

Just wanted to follow up with you – Any idea if anyone else would be on the panel? Bill Wehrum is taking a look and interested in participating.

Thanks!

Clint

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**From:** Paul Bailey <pbailey@americaspower.org>  
**Sent:** Wednesday, January 30, 2019 4:05 PM  
**To:** Woods, Clint <woods.Clint@epa.gov>  
**Subject:** RE: NARUC Feb 12

Thanks, Clint. Sorry you'll be in Houston but others on your team could do a good job too.

---

**From:** Woods, Clint <[woods.clint@epa.gov](mailto:woods.clint@epa.gov)>  
**Sent:** Wednesday, January 30, 2019 2:53 PM  
**To:** Paul Bailey <[pbailey@americaspower.org](mailto:pbailey@americaspower.org)>  
**Subject:** Re: NARUC Feb 12

Paul,

Thanks so much! Unfortunately, I'll be in Houston on the 12th, but I'm checking on availability for rest of the team (I believe Bill may be doing a sideline bfast thing for NARUC that morning, so he might be able to stick around for the panel).

Clint

On Jan 30, 2019, at 10:27 AM, Paul Bailey <[pbailey@americaspower.org](mailto:pbailey@americaspower.org)> wrote:

Clint –

NARUC is holding a panel discussion on the ACE rule. I've agreed to be on the panel, and I've been asked to invite someone from EPA to also serve as a panelist. I'm not sure if they intend to invite other panelists. Would you be available and interested? The panel is scheduled for 10:45 – 11:45. I can provide more color if that would be helpful.

Thanks,  
Paul

**Paul Bailey**

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T: 202.459.4818 | M: 703.586.2422

[pbailey@americaspower.org](mailto:pbailey@americaspower.org)

<image001.png>

## Message

**From:** Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]  
**Sent:** 11/20/2017 7:00:29 PM  
**To:** 'cjlongo@comcast.net' [cjlongo@comcast.net]; 'maryanne11@msn.com' [maryanne11@msn.com]  
**Subject:** Law 360 Interview

## 10 Questions For The EPA's Bill Wehrum

Share us on: By Juan Carlos Rodriguez



Bill Wehrum

Law360, New York (November 17, 2017, 7:11 PM EST) --

The U.S. Environmental Protection Agency's new air chief Bill Wehrum won't just be helping the Trump administration roll back Obama-era rules like the Clean Power Plan, he'll also be taking a close look at the agency's 2009 carbon dioxide endangerment finding and its New Source Review permitting program, he told Law360 in an exclusive interview.

Wehrum, who previously headed Hunton & Williams LLP's administrative law practice, which includes the environmental practice group, spoke with Law360 about a wide range of issues Friday, three days after formally taking over as assistant administrator of the EPA's Office of Air and Radiation.

### What are your top priorities?

If I had to pick two or three things that are at the top of the list, of course the Clean Power Plan is up there. We've already proposed to repeal the Clean Power Plan, and the public hearings on that are coming up the week after next. So we've started a process on a very important rule and very important issues, and seeing that through is going to be a very high priority, if not a top priority, for us here.

The second thing is — again, begun prior to my arrival, but I'll definitely be working on this — we announced the intent to reconsider the midterm review for greenhouse gas standards for cars and trucks. I'm going to be talking to the transportation office about what kind of comments were submitted and begin thinking about how to handle those issues.

Then there's a big category of everything else. This office is responsible for a lot of issues big and small, and I think maybe the most important thing I'll do, especially in the short term, is try to gain an understanding of what the landscape looks like big and small, and then begin working with the offices to start talking those issues out. From a procedural standpoint, I think a lot of good work has been done prior to my arrival, but now that I'm here, I think the office is poised to really start getting into gear and working on a lot of issues and getting a lot done.

**Do you feel the New Source Review permitting program needs revision?**

I think it can be improved, you bet. It was a very high priority to reform the program when I was at EPA the first time, back in the Bush 43 administration, and we did a series of pretty large-scale regulations that were directed at trying to make it work better. So this time around, the program is still there, it's still big, it's still complicated, and I absolutely think that there are ways it could be improved and that will be a priority of mine.

**Do you believe the EPA's 2009 endangerment finding regarding carbon dioxide was correct?**

That's one of many, many things I need to spend time with my staff coming up to speed on and one of many, many things I need to talk with the administrator and others in the administration about. So I'm in a learning phase right now, and it will take me some time to get my arms around it.

There's a mountain of data and a mountain of science related to climate right now, and I have never climbed that mountain, but I fully intend to. So there's a lot I have to learn and it's a very important issue, it's a very high priority, so believe me, it's something I'll be spending some time on.

**Do you think the California vehicle emissions waiver should stay in place or be withdrawn?**

That's another very important issue, but not something I've had an opportunity to come up to speed on yet.

**Is there any pending litigation that you know for sure you will recuse yourself from?**

Absolutely. I was counsel of record in a number of cases challenging EPA regulations that I handled in my capacity as a lawyer in private practice, and I can't touch any of those cases now that I'm here at EPA.

There are very, very stringent rules that apply to people like me that transition from the public sector into government service. I'm subject to lawyer rules of ethics, government rules of ethics and the additional Trump ethics pledge. So all of those combine to create a very strict set of rules that govern what I can and can't do now that I'm here at EPA.

I've already met and had a lengthy discussion with EPA ethics officials to make sure that we absolutely follow the rules and follow the law.

**Does that apply to the regulatory process as well?**

The absolute recusals apply to what are typically called "particular matters," and litigation is a particular matter because there are defined parties on each side of it. A general rulemaking, like the methane rule, is not a particular matter. So if we go forward with rule amendments on the methane rule, that is not something I would be recused from.

**How do you think the relaxation of regulations on the fossil fuel industry could affect the broader energy sector, and renewables in particular?**

The way in which power is generated and distributed and used is influenced by lots of factors, one of which is EPA regulatory programs. So yes, we will be taking a hard look at the regulatory programs that apply to the power sector, at least the ones we regulate. But do we regulate solar in the air office? No. Do we regulate fossil combustion in the air office? Yes, we do. So we'll be taking a look at those regulations. The CPP is a good case in point. My job is to look at those rules and make sure we faithfully implement the Clean Air Act and do it as smartly and efficiently as we can.

**What do you think were the biggest mistakes the EPA air office made during the Obama administration?**

I think the most productive thing we can do is look ahead and not look back. A big reason why I'm here is that there continue to be numerous compelling and important issues that we deal with under the Clean Air Act and my job is to look ahead and chart the best course that I can and protect human health and the environment, because that's job No. 1 here at EPA, but be smart about it.

**In what ways would you like your tenure to further the EPA's mission of protecting human health and the environment?**

The administrator has said time and time again, our job is to faithfully implement the laws. And my beat is mostly Clean Air Act, so job No. 1 for me is to continue implementing our authorities and responsibilities under the act.

A big reason why I'm here is I think it's very, very important that we also do that in the smartest and most efficient way possible. We have to do the job of protecting health and the environment, that's why we're all here, but I think it's critically important to do that in a way that is as smart and streamlined as possible.

**Do you think the air office needs to be refocused in any way? Is it spending time and energy in areas that would be better spent in others?**

That's a hard question for me to answer right now, I'm still coming up to speed on what issues and actions are in the pipeline. But one thing I would say is that most of what we do around here is stuff that we have to do under the Clean Air Act, so from my perspective, it's not so much a matter of stopping work on a bunch of stuff and starting work on a bunch of other things, that's just not what it's about. It's managing the issues and managing the rules that we have to do and have to write under the Clean Air Act, and again, doing that in the smartest, most efficient way we can.

*Editor's note: This interview has been edited for length and clarity.*

--Editing by Katherine Rautenberg and Aaron Pelc.

## Message

**From:** Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]  
**Sent:** 2/21/2019 1:22:10 PM  
**To:** cjlongo [Personal Email / Ex. 6] wehrum [Personal Email / Ex. 6]  
**Subject:** FW: Exclusive: How a top EPA regulator's law firm profited from the fight to roll back air rule

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Bill Wehrum  
 Assistant Administrator  
 Office of Air and Radiation  
 U.S. Environmental Protection Agency  
 (202) 564-7404

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**From:** Abboud, Michael  
**Sent:** Wednesday, February 20, 2019 6:45 PM  
**To:** Wehrum, Bill <Wehrum.Bill@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; McFaul, Jessica <mcfaul.jessica@epa.gov>  
**Subject:** Fwd: Exclusive: How a top EPA regulator's law firm profited from the fight to roll back air rule

Flagging for everyone.

Sent from my iPhone

Begin forwarded message:

**From:** "POLITICO Pro Energy" <politicoemail@politicopro.com>  
**Date:** February 20, 2019 at 6:42:33 PM EST  
**To:** <abboud.michael@epa.gov>  
**Subject:** Exclusive: How a top EPA regulator's law firm profited from the fight to roll back air rules  
**Reply-To:** "POLITICO subscriptions" <reply-fe7e1379776c0d787c-1158573\_HTML-820854487-1376319-0@politicoemail.com>

**Exclusive: How a top EPA regulator's law firm profited from the fight to roll back air rules**

By Zack Colman and Alex Guillén

02/20/2019 06:40 PM EDT

The nation's biggest coal-burning power companies paid a top lobbying firm millions of dollars to fight a wide range of Obama-era environmental rules, documents obtained by POLITICO reveal — shortly before one of the firm's partners became President Donald Trump's top air pollution regulator.

Now that ex-partner, Bill Wehrum, is aggressively working to undo many of those same regulations at the EPA, where he is an assistant administrator in charge of issues including climate change, smog and power plants' mercury pollution.

Wehrum's past role as a utility lobbyist is well-known, but the documents reveal never-before-disclosed details of how extensively his old firm, formerly called Hunton & Williams, worked to coordinate the power industry's strategy against the Obama administration's regulations. Twenty-five power companies and six industry trade groups agreed to pay the firm a total of \$8.2 million in 2017 alone, according to an internal summary prepared in June of that year — less than three months before Trump tapped Wehrum for his EPA post.

POLITICO obtained 26 pages of briefing materials distributed to members of an umbrella group of utilities Wehrum represented while at the firm. Known as the Utility Air Regulatory Group, the secretive organization included some of the largest coal-burning utilities in the country. The materials were marked "CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION" and outlined goals for a meeting of the group's policy committee.

Topping the list of funders were Duke Energy, Southern Co. and AEP, which together contributed nearly one-third of the money.

Wehrum has said he won't work on lawsuits former clients are involved in, but nothing in federal ethics rules prevents him from working on regulations that apply to a broad sweep of actors in the industry he once represented. To that extent, it does not appear Wehrum has violated any laws, but it does expose holes in the ethics system.

"The scandal here is what is legal," said Kathleen Clark, a Washington University in St. Louis law professor and ethics expert. She said the documents show "industry group strategizing about how to change federal policy through the installation of friendly personnel as regulators — and then one of their own who was in the meeting, who was in the room where it happened, ended up being the key regulator."

Wehrum said Wednesday that he has stayed on the right side of the ethical line.

"From the beginning and from well before I joined EPA I thought it was very important to understand the ethical obligations that would apply to me," he said in an interview with POLITICO. He added, "The ethical rules do not prevent me from working on regulations of general applicability."

Wehrum spent 10 years as a partner at the firm, now called Hunton Andrews Kurth. His EPA biography notes that he was also head of the firm's "Administrative Law Group."

Wehrum convened his power plant industry clients on June 22 and 23, 2017, at his law firm's Washington, D.C., offices to lay out a road map for attacking the very policies he now oversees, the documents show. The roster of clients under the umbrella of the Utility Air Regulatory Group include some of the largest, most influential utility companies in the country. Wehrum told POLITICO he does not remember the two-day meeting, but a person familiar with the meeting and another who attended confirmed he was there.

Wehrum is certainly not the only person in Washington or the Trump administration to swing from lobbying to regulating. But the documents lay out an unusually clear picture of how Washington lobbyists steer a legal campaign for clients, keeping litigation churning while earning massive fees for their firms.

"I think the proximity of what he was doing in private sector advocacy then government work is a thing that distinguishes him from a lot of people and makes him vulnerable to criticism and questioning," said a former government ethics official.

By the time Trump had nominated Wehrum, he'd already made millions for and from Hunton — his financial disclosure listed a \$2.1 million partnership share in his last year at the firm. That form also lists the Utility Air Regulatory Group as one of 20 sources of his compensation surpassing \$5,000, but only one UARG member — Salt River Project — is named individually.

The documents prepared for the group's June 2017 policy committee meeting laid out how much money Hunton & Williams was seeking for its work on behalf of the companies. It estimated an \$8.8 million budget for 2018.

Once "the new leadership team at EPA is in place, if that team shows that it has the ability to address expeditiously many of the initiatives of greatest importance to UARG members — and if UARG wants to participate meaningfully in such initiatives — then UARG will likely need an overall year-2018 budget that is higher than this year's budget," it read.

A month after the meeting, word began to circulate that Wehrum was headed to EPA, and by September, Trump made the nomination official.

It was unclear how far Wehrum was in his negotiations with the administration at the time of the meeting — he told POLITICO he was first approached in "early 2017" about the possibility — but he already had access to high-level EPA officials.

Mandy Gunasekara, then a top EPA air official, attended the UARG meeting at Wehrum's request.

"We are interested in any Clean Air Act regulatory issue that you are willing and able to address," Wehrum wrote in an email to Gunasekara, according to separate documents obtained by the Sierra Club under the Freedom of Information Act. "Topics of interest include the Clean Power Plan, the Mercury and Air Toxics Standard, regional transport, regional haze, and NAAQS/NAAQS implementation. We are not asking you to address pending litigation on any of these issues. We are interested in discussing only possible future regulatory action."

A person who was at the meeting confirmed both Gunasekara and Wehrum were there.

Wehrum told POLITICO that while he continued to work for Hunton for most of 2017, he "billed typically just a few hours a year to UARG." He said he's stayed within ethical boundaries because rules don't prohibit him from working on regulations that apply to a broad suite of players and he has not met with UARG since joining the EPA.

Wehrum has previously said he would recuse himself from litigation matters that he previously participated in, but not policymaking, such as regulation. He represented UARG in court as late as March 2017, when he filed a lawsuit over an Obama administration rule boosting chemical safety and reporting requirements at industrial facilities.

"UARG is an entity. It's a legal entity," he said, explaining that his clients were "not the individual members" of UARG.

Wehrum recused himself for two years from decisions related to a Dominion Energy subsidiary, Duke and Salt River Project, but not any of the other UARG member companies, according to a September 2018 recusal statement to acting EPA Administrator Andrew Wheeler.

Wehrum has in the past tried to firewall his work on litigation and policy, suggesting he would recuse himself from matters in which Hunton has represented clients in lawsuits challenging

Obama-era policies. But the newly obtained documents show how deeply Hunton was involved in the cradle-to-grave formation of policy through UARG. For example, the June 2017 briefing materials cited "possible participation in rulemaking activity" among the services for which Hunton expected to bill the group's members.

Since he was confirmed by the Senate in November 2017, Wehrum has undertaken many of the policies UARG identified as top priorities.

For example, the June 2017 UARG document says the group will "coordinate member efforts and strategy regarding EPA review and potential reconsideration of" an Obama-era rule that justified major limits on mercury from power plant smokestacks by counting "co-benefits" from incidental reductions in other types of air pollution.

Then, last December, after Wehrum joined the agency, EPA proposed changing the rule to disregard the co-benefits, aligning itself with the position UARG has taken since at least 2016. (The agency also opened the door to revoking rule entirely — something that would benefit the dirtiest coal plants in the country — although it says it has no immediate plans to do so.)

Another area of focus UARG outlined in June 2017 was "potential administrative actions related to the New Source Review program," a reference to permits that coal plants have to receive before conducting major upgrades.

Wehrum included major changes to that program as part of EPA's new carbon rule for power plants. The proposal would waive the New Source Review requirements for coal plants installing efficiency technology because the permitting costs would make the upgrades "no longer viable," Wehrum told reporters last week. That change could allow coal plants to run more frequently, potentially increasing overall emissions even if the plant is more efficient.

And in a separate move last November, Wehrum revived a New Source Review rule issued in the final days of the George W. Bush administration but halted by the Obama administration. The project "aggregation" rule could help utilities avoid more stringent permitting requirements, and it is also listed as an action item on UARG's 2017 list.

The Edison Electric Institute, the main trade association for the nation's investor-owned utilities, foots most of the UARG bill, according to the newly obtained briefing materials. But UARG doesn't show up in any official documents — it has no tax identification number, no address, no incorporation filings. In lawsuits, UARG generally describes itself as a "not-for-profit" or "ad hoc" group of electricity generators without further describing its membership.

UARG's structure allows it to avoid a paper trail. Utilities are dues-paying "members" of the organization. Many of those members, though, are also part of EEI. Rather than collect directly from companies, the briefing materials show that Hunton bills EEI directly — thus avoiding involvement of any formal entity known as UARG. EEI's 990 filings with the IRS, which nonprofits file annually, show a more than \$8 million "consulting" tab for Hunton dating back years, making up more than half of the trade organization's independent contractor services.

"EEI provides accounting services to groups such as UARG and participates in a number of coalitions covering a range of issues important to our members," EEI spokesperson Brian Reil said in a statement to POLITICO. "UARG provides a variety of services to its members, including regulatory, technical, and compliance advice and information. EEI does not participate in any votes on UARG policy matter decisions. EEI files our own comments on the issues that are important to our members and their customers."

The names of the UARG members are some of the biggest in the business, along with some of the largest consumers of coal.

The documents show that 25 companies that are EEI members — including AEP, Ameren, Dominion, DTE Energy Co., Duke, FirstEnergy Corp., NiSource, South Carolina Electric & Gas Co. and Southern Co. Services — accounted for \$6.8 million in 2017 dues to UARG.

Organizations that have backed efforts to soften pollution and climate regulations account for the remaining \$1.4 million in dues: American Coalition for Clean Coal Electricity, American Public Power Association, EEI, National Rural Electric Cooperative Association and the National Mining Association. The Tennessee Valley Authority also paid \$462,967 in dues that year, according to the documents.

Wehrum thus can have a significant effect on keeping business flowing to his old firm through regulatory maneuvers that affect the power industry. Some companies have already questioned whether some of Wehrum's moves are necessary. Redoing the Mercury and Air Toxics Standards, a pollution rule that most utilities already have spent millions complying with, tops that list. UARG member Duke, for example, has publicly criticized EPA's decision to revisit that rule.

In an interview, Wehrum cited EPA's work on the mercury rule as one area where his policies have diverged from the wishes of some UARG members. "I'm not going to put words or thoughts into anybody's mouth," Wehrum said of UARG, but he added, "I know at least a lot of individual member companies wanted to go the other way."

Given that Hunton participates both in regulatory comment periods and litigation, Wehrum's old firm would be slated to be involved in every step of the policy process. The June 2017 UARG document lists specific budget allocations for various programs, such as climate change, pollution control technologies, hazardous air pollutants and regional air quality.

Wehrum told POLITICO he believes he's doing things by the book.

"I don't believe anybody has gotten special access because they're a friend of mine," he said.

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**From:** Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]  
**Sent:** 11/20/2017 9:48:27 PM  
**To:** RStoll@foley.com  
**Subject:** RE: 10 Questions For The EPA's Bill Wehrum

Thanks Dick.

-----Original Message-----

From: RStoll@foley.com [mailto:RStoll@foley.com]  
 Sent: Monday, November 20, 2017 8:47 AM  
 To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>  
 Subject: Fwd: 10 Questions For The EPA's Bill Wehrum

Bill — great interview. Dick

Richard G. Stoll  
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The U.S. Environmental Protection Agency's new air chief Bill Wehrum won't just be helping the Trump administration roll back Obama-era rules like the Clean Power Plan, he'll also be taking a close look at the agency's 2009 carbon dioxide endangerment finding and its New Source Review permitting program, he told Law360 in an exclusive interview.

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The U.S. Environmental Protection Agency's new air chief Bill Wehrum won't just be helping the Trump administration roll back Obama-era rules like the Clean Power Plan, he'll also be taking a close look at the agency's 2009 carbon dioxide endangerment finding and its New Source Review permitting program, he told Law360 in an exclusive interview. Read more »<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986406\\_10-2Dquestions-2Dfor-2Dthe-2Dempa-2Ds-2Dbill-2Dwehrum-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaigh-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWbONl616a3TyjNj450&s=uMNBKb-onbqmRTVn2tDWJOTdCx6s0fa4rXTCWImBr5Y&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986406_10-2Dquestions-2Dfor-2Dthe-2Dempa-2Ds-2Dbill-2Dwehrum-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaigh-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWbONl616a3TyjNj450&s=uMNBKb-onbqmRTVn2tDWJOTdCx6s0fa4rXTCWImBr5Y&e=>)>

## Forest Service Can Clear Trees In Wildfire Zone, Judge

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A split California appeals court ruled Thursday that a San Diego regional planning agency failed to properly analyze greenhouse gas reduction and assess public health risks in a 2011 review of a \$200 billion long-term transportation plan. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986273\\_-2D200b-2Dsan-2Ddiego-2Dtranspo-2Dplan-2Dstill-2Dinadequate-2Don-2Dappeal-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=VmPC3Cse70Rm8hv3RIZPKkHSL8RxGF9K1CbKJm2S2bI&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986273_-2D200b-2Dsan-2Ddiego-2Dtranspo-2Dplan-2Dstill-2Dinadequate-2Don-2Dappeal-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=VmPC3Cse70Rm8hv3RIZPKkHSL8RxGF9K1CbKJm2S2bI&e=>)

## Cert. Too Soon For Groundwater Pollution Suit, Judge

Says<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986209\\_cert-2Dtoo-2Dsoon-2Dfor-2Dgroundwater-2Dpollution-2Dsuit-2Djudge-2Dsays-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=tPveHU0PBuMIOLguUdaRy5kZD9Ed\\_-iM81bXsdEkj0&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986209_cert-2Dtoo-2Dsoon-2Dfor-2Dgroundwater-2Dpollution-2Dsuit-2Djudge-2Dsays-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=tPveHU0PBuMIOLguUdaRy5kZD9Ed_-iM81bXsdEkj0&e=>)

An Indiana federal judge denied class certification Thursday to homeowners who claim automotive manufacturer United Technologies Corp. and a gas station contaminated the groundwater underneath their property for more than 20 years, saying the bid was premature. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986209\\_cert-2Dtoo-2Dsoon-2Dfor-2Dgroundwater-2Dpollution-2Dsuit-2Djudge-2Dsays-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=6RZrsM9uKq5uRDacyZd4KxKkCWPMdNtZELpzqv4hsGs&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986209_cert-2Dtoo-2Dsoon-2Dfor-2Dgroundwater-2Dpollution-2Dsuit-2Djudge-2Dsays-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=6RZrsM9uKq5uRDacyZd4KxKkCWPMdNtZELpzqv4hsGs&e=>)

## POLICY &amp; REGULATION

## Wash. Reps Float Bill To Speed Up DOI Water Project

Reviews<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986475\\_wash-2Dreps-2Dfloat-2Dbill-2Dto-2Dspeed-2Dup-2Ddoi-2Dwater-2Dproject-2Dreviews-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=4NfSgeXCZasoGGfc9Gx-5et2wz0m8Z-vWladoKb6Br8&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986475_wash-2Dreps-2Dfloat-2Dbill-2Dto-2Dspeed-2Dup-2Ddoi-2Dwater-2Dproject-2Dreviews-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=4NfSgeXCZasoGGfc9Gx-5et2wz0m8Z-vWladoKb6Br8&e=>)

Two Republican lawmakers introduced a bill Thursday meant to speed up the environmental planning and review of water projects by two U.S. Department of the Interior agencies and to advance a specific water management project for the Yakima River in Washington state. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986475\\_wash-2Dreps-2Dfloat-2Dbill-2Dto-2Dspeed-2Dup-2Ddoi-2Dwater-2Dproject-2Dreviews-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=9z8Z8axeQ5DZ2JRL8aTk1xGWVYyqD1ARE3Xy-4TFHQ&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986475_wash-2Dreps-2Dfloat-2Dbill-2Dto-2Dspeed-2Dup-2Ddoi-2Dwater-2Dproject-2Dreviews-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=9z8Z8axeQ5DZ2JRL8aTk1xGWVYyqD1ARE3Xy-4TFHQ&e=>)

## LITIGATION

## Duke Awarded \$68M In Spent Nuclear Fuel Suit Against

DOE<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986643\\_duke-2Dawarded-2D68m-2Din-2Dspent-2Dnuclear-2Dfuel-](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986643_duke-2Dawarded-2D68m-2Din-2Dspent-2Dnuclear-2Dfuel-)

2Dsuit-2Dagainst-2Ddoe-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=P46Fo\_if8PmwsW4vXhjBuIN-yLdhkgNQqbdSTFZmJoY&e=>

A federal judge Friday granted two Duke Energy units nearly \$68.5 million in damages resulting from the federal government's partial breach of a contract to collect spent nuclear fuel and waste from four plants in the Carolinas and Florida, but found an additional \$3.1 million not recoverable. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986643\\_duke-2Dawarded-2D68m-2Din-2Dspent-2Dnuclear-2Dfuel-2Dsuit-2Dagainst-2Ddoe-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=no3VWGY1Ik8t8AF8Vq-cmk1nnhNTLkOEZ4mElvAgnW8&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986643_duke-2Dawarded-2D68m-2Din-2Dspent-2Dnuclear-2Dfuel-2Dsuit-2Dagainst-2Ddoe-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=no3VWGY1Ik8t8AF8Vq-cmk1nnhNTLkOEZ4mElvAgnW8&e=>)

9th Circ. Nixes Preliminary Block To Ore. Logging Project<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986314\\_9th-2Dcirc-2Dnixes-2Dpreliminary-2Dblock-2Dto-2Dore-2Dlogging-2Dproject-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=fq64w6ZTaXSU11MTAg13R4fnc1giURbzfv1VVR-mIp0&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986314_9th-2Dcirc-2Dnixes-2Dpreliminary-2Dblock-2Dto-2Dore-2Dlogging-2Dproject-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=fq64w6ZTaXSU11MTAg13R4fnc1giURbzfv1VVR-mIp0&e=>)

A Ninth Circuit panel on Thursday reversed a lower court's order temporarily stopping Scott Timber Co. from clear-cutting a parcel of forest in the Oregon Coast Range, saying the district judge was wrong to require a "lesser showing" of irreparable harm than is needed. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986314\\_9th-2Dcirc-2Dnixes-2Dpreliminary-2Dblock-2Dto-2Dore-2Dlogging-2Dproject-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=Fst017n5aIbHLKIhtXYZAQjYRi7Dl1g1b6bV-SNKLmo&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986314_9th-2Dcirc-2Dnixes-2Dpreliminary-2Dblock-2Dto-2Dore-2Dlogging-2Dproject-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=Fst017n5aIbHLKIhtXYZAQjYRi7Dl1g1b6bV-SNKLmo&e=>)

Texas County Sues Arkema Over Plant Fire In Wake Of Harvey<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986316\\_texas-2Dcounty-2Dsues-2Darkema-2Dover-2Dplant-2Dfire-2Din-2Dwake-2Dof-2Dharvey-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=I5083ZFfyXEbbQoq32LtHilJEDZ1dyPJmncpCxoXnqs&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986316_texas-2Dcounty-2Dsues-2Darkema-2Dover-2Dplant-2Dfire-2Din-2Dwake-2Dof-2Dharvey-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=I5083ZFfyXEbbQoq32LtHilJEDZ1dyPJmncpCxoXnqs&e=>)

Harris County, Texas, asked a state judge on Thursday to order Arkema Inc., whose liquid organic peroxide manufacturing plant caught fire in the wake of historic flooding from Hurricane Harvey, to take steps to improve its disaster safety plans and reimburse the county for responding to the incident. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986316\\_texas-2Dcounty-2Dsues-2Darkema-2Dover-2Dplant-2Dfire-2Din-2Dwake-2Dof-2Dharvey-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=W00BFSqH\\_IbYbxLORotNXKOM11GE2HiAPSTeyrBJg5k&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986316_texas-2Dcounty-2Dsues-2Darkema-2Dover-2Dplant-2Dfire-2Din-2Dwake-2Dof-2Dharvey-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=W00BFSqH_IbYbxLORotNXKOM11GE2HiAPSTeyrBJg5k&e=>)

Alaska Tribal Health Org Sues For Land Cleanup, Transfer<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986367\\_alaska-2Dtribal-2Dhealth-2Dorg-2Dsues-2Dfor-2Dland-2Dcleanup-2Dtransfer-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=1r93H2-mUJLsvky1U4XHTtko-sONjHiNiWb5U6nOXfu&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986367_alaska-2Dtribal-2Dhealth-2Dorg-2Dsues-2Dfor-2Dland-2Dcleanup-2Dtransfer-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=1r93H2-mUJLsvky1U4XHTtko-sONjHiNiWb5U6nOXfu&e=>)

Alaska Tribal Health Org Sues For Land Cleanup, Transfer<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986367\\_alaska-2Dtribal-2Dhealth-2Dorg-2Dsues-2Dfor-2Dland-2Dcleanup-2Dtransfer-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=1r93H2-mUJLsvky1U4XHTtko-sONjHiNiWb5U6nOXfu&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986367_alaska-2Dtribal-2Dhealth-2Dorg-2Dsues-2Dfor-2Dland-2Dcleanup-2Dtransfer-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=1r93H2-mUJLsvky1U4XHTtko-sONjHiNiWb5U6nOXfu&e=>)

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A tribe-run health care nonprofit in Alaska filed a complaint in federal court Thursday seeking to force the U.S. Department of the Interior and the Air Force to clean up and transfer oil-contaminated land the nonprofit says should have been in its hands more than two decades ago. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986367\\_alaska-2Dtribal-2Dhealth-2Dorg-2Dsues-2Dfor-2Dland-2Dcleanup-2Dtransfer-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=kg1o3jvNeBr456Ox2XKRHTFLhxSa2w9DowcGWS\\_owM4&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986367_alaska-2Dtribal-2Dhealth-2Dorg-2Dsues-2Dfor-2Dland-2Dcleanup-2Dtransfer-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLII1l6gWboNl616a3TyjNj450&s=kg1o3jvNeBr456Ox2XKRHTFLhxSa2w9DowcGWS_owM4&e=>)

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PEOPLE

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Duane Morris LLP has welcomed a former Drinker Biddle & Reath LLP attorney as an environmental partner in the firm's Cherry Hill, New Jersey, office, where she'll tackle complex litigation and advise clients with respect to the environmental considerations in real estate and corporate transactions. Read more »[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_984424\\_duane-2Dmorris-2Ddadds-2Ddex-2Ddrinker-2Dbiddle-2Denviron-2Dpartner-2Din-2Dnj-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=XdXxDrziHAY5OmpWjKvjaJlCdFNSQ4IbCnNhoLZWhy8&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_984424_duane-2Dmorris-2Ddadds-2Ddex-2Ddrinker-2Dbiddle-2Denviron-2Dpartner-2Din-2Dnj-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=XdXxDrziHAY5OmpWjKvjaJlCdFNSQ4IbCnNhoLZWhy8&e=>)

#### EXPERT ANALYSIS

How FERC Is Streamlining Hydropower Licensing[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986387\\_how-2Dferc-2Dis-2Dstreamlining-2Dhydropower-2Dlicensing-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=o2bDGWR-ENZvPkZiFg9ja5MaObaCqXVOGYkwTnpHfAg&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986387_how-2Dferc-2Dis-2Dstreamlining-2Dhydropower-2Dlicensing-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=o2bDGWR-ENZvPkZiFg9ja5MaObaCqXVOGYkwTnpHfAg&e=>)

The Federal Energy Regulatory Commission recently adopted a 40-year default license term for hydropower projects at nonfederal dams. While there is more that FERC could do to ease hydro licensing and relicensing, this move is a welcome effort to streamline and reduce uncertainty in the licensing process, say Mary Anne Sullivan and Zachary Launer of Hogan Lovells LLP. Read more »[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986387\\_how-2Dferc-2Dis-2Dstreamlining-2Dhydropower-2Dlicensing-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=9U7aylg2fVrD2Hmp45hxeePy7e-PUKApmturtN0DAMI&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986387_how-2Dferc-2Dis-2Dstreamlining-2Dhydropower-2Dlicensing-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=9U7aylg2fVrD2Hmp45hxeePy7e-PUKApmturtN0DAMI&e=>)

The Battle Over 3rd-Party Releases Continues[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986673\\_the-2Dbattle-2Dover-2D3rd-2Dparty-2Dreleases-2Dcontinues-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=PwMg82GtLVu64T8K4ew-om8riNcjv3XgWIMnjSs07Bg&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986673_the-2Dbattle-2Dover-2D3rd-2Dparty-2Dreleases-2Dcontinues-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=PwMg82GtLVu64T8K4ew-om8riNcjv3XgWIMnjSs07Bg&e=>)

Bankruptcy courts have taken divergent approaches to analyzing whether they have jurisdiction to approve nonconsensual third-party nondebtor releases. While the New York bankruptcy court's recent decision in SunEdison provides another data point for the debate, it leaves some questions unanswered, say attorneys with Gibson Dunn & Crutcher LLP. Read more »[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986673\\_the-2Dbattle-2Dover-2D3rd-2Dparty-2Dreleases-2Dcontinues-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=BKA92UHPf1l5CK0TjNV1Z01z6AAOicquXlxxZCisVMQ&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986673_the-2Dbattle-2Dover-2D3rd-2Dparty-2Dreleases-2Dcontinues-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=BKA92UHPf1l5CK0TjNV1Z01z6AAOicquXlxxZCisVMQ&e=>)

Gauging NJ Insurance Brokers' Standard Of Care Since Sandy[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986261\\_gauging-2Dnj-2Dinsurance-2Dbrokers-2Dstandard-2Dof-2Dcare-2Dsince-2Dsandy-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=88UV-2KSR7cCguyPO\\_9wi9iTaFeBjuXKc0e3TmbuQw&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986261_gauging-2Dnj-2Dinsurance-2Dbrokers-2Dstandard-2Dof-2Dcare-2Dsince-2Dsandy-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=88UV-2KSR7cCguyPO_9wi9iTaFeBjuXKc0e3TmbuQw&e=>)

When a catastrophe strikes and insurance companies either deny coverage or limit the coverage provided, the insurance broker is in the crosshairs of what can turn out to be a litigious claim. Gary Strong of Seiger Gfeller & Laurie LLP explores the duty of insurance brokers in New Jersey and how these duties come into play, particularly after Superstorm Sandy. Read more »[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986261\\_gauging-2Dnj-2Dinsurance-2Dbrokers-2Dstandard-2Dof-2Dcare-2Dsince-2Dsandy-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=zYjTI7T8Z3XKiepg-EVq9HXZHBx\\_VGRlj866hoIj9NM&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986261_gauging-2Dnj-2Dinsurance-2Dbrokers-2Dstandard-2Dof-2Dcare-2Dsince-2Dsandy-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=zYjTI7T8Z3XKiepg-EVq9HXZHBx_VGRlj866hoIj9NM&e=>)

From Snaps To Tweets: The Craft Of Social Media Discovery[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_983747\\_from-2Dsnaps-2Dto-2Dtweets-2Dthe-2Dcraft-2Dof-2Dsocial-2Dmedia-2Ddiscovery-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=aRhv17eYTFmxVz7YiPBMJ5Vgdp5X696hpPrDsU\\_z\\_bc&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_983747_from-2Dsnaps-2Dto-2Dtweets-2Dthe-2Dcraft-2Dof-2Dsocial-2Dmedia-2Ddiscovery-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=aRhv17eYTFmxVz7YiPBMJ5Vgdp5X696hpPrDsU_z_bc&e=>)

Courts have consistently held that social media accounts are subject to established discovery principles but are reluctant to allow parties to rummage through private social media accounts. Recent case law confirms that narrowly tailored information requests get the best results, say Matthew Hamilton, Donna Fisher and Jessica Bae of Pepper Hamilton LLP. Read more »[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_983747\\_from-2Dsnaps-2Dto-2Dtweets-2Dthe-2Dcraft-2Dof-2Dsocial-2Dmedia-2Ddiscovery-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=aRhv17eYTFmxVz7YiPBMJ5Vgdp5X696hpPrDsU\\_z\\_bc&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_983747_from-2Dsnaps-2Dto-2Dtweets-2Dthe-2Dcraft-2Dof-2Dsocial-2Dmedia-2Ddiscovery-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=aRhv17eYTFmxVz7YiPBMJ5Vgdp5X696hpPrDsU_z_bc&e=>)

2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=8aepvJ4as6oDcEtDzgtCxqSofsx3WM4vWBndqz0gMqs&e=>

## LEGAL INDUSTRY

### Analysis

Ex-Weinstein Attys Muddy BigLaw's Rep For Keeping Secrets<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_985485\\_ex-2Dweinstein-2Dattys-2Dmuddy-2Dbiglaw-2Ds-2Drep-2Dfor-2Dkeeping-2Dsecrets-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=hZKBRhZdKX\\_Su-hGomaYviXvuz7FMneryIM84kb2m2A&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_985485_ex-2Dweinstein-2Dattys-2Dmuddy-2Dbiglaw-2Ds-2Drep-2Dfor-2Dkeeping-2Dsecrets-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=hZKBRhZdKX_Su-hGomaYviXvuz7FMneryIM84kb2m2A&e=>)

Defying the tight-lipped tradition of lawyers who have represented reviled clients, two of Harvey Weinstein's former attorneys have issued public explanations of their work and spoken extensively to the press about their "mistakes," a phenomenon some experts say undermines public confidence that lawyers, regardless of their own reputations, will keep client matters close. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_985485\\_ex-2Dweinstein-2Dattys-2Dmuddy-2Dbiglaw-2Ds-2Drep-2Dfor-2Dkeeping-2Dsecrets-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=I1NHUKf1tA-nh-d1tV1A41nsHN3dqnsZigP214fg2aM&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_985485_ex-2Dweinstein-2Dattys-2Dmuddy-2Dbiglaw-2Ds-2Drep-2Dfor-2Dkeeping-2Dsecrets-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=I1NHUKf1tA-nh-d1tV1A41nsHN3dqnsZigP214fg2aM&e=>)

Trump Adds 5 Names To Supreme Court Potential List<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986782\\_trump-2Dadds-2D5-2Dnames-2Dto-2Dsupreme-2Dcourt-2Dpotential-2Dlist-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=Xj-czSVuxdKnsVty2P520sfsm9T1nuiy3YS0PZZu32I&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986782_trump-2Dadds-2D5-2Dnames-2Dto-2Dsupreme-2Dcourt-2Dpotential-2Dlist-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=Xj-czSVuxdKnsVty2P520sfsm9T1nuiy3YS0PZZu32I&e=>)

President Donald J. Trump announced on Friday the addition of five new names to the list of judges that he will draw upon to fill a potential vacancy in the U.S. Supreme Court. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986782\\_trump-2Dadds-2D5-2Dnames-2Dto-2Dsupreme-2Dcourt-2Dpotential-2Dlist-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=X0vpeQ\\_HauwLp1e4R08LPJYWSAgrYRAsCJ4cNnNTR2w&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986782_trump-2Dadds-2D5-2Dnames-2Dto-2Dsupreme-2Dcourt-2Dpotential-2Dlist-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=X0vpeQ_HauwLp1e4R08LPJYWSAgrYRAsCJ4cNnNTR2w&e=>)

'Long Siege' For Ex-Dewey Controller Ends With No Jail<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986527\\_-2Dlong-2Dsiege-2Dfor-2Dex-2Ddewey-2Dcontroller-2Dends-2Dwith-2Dno-2Djail-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=vn8ulPwww3k3F8or01UXirmt1KIu5e1XIKITH\\_2wzx4&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986527_-2Dlong-2Dsiege-2Dfor-2Dex-2Ddewey-2Dcontroller-2Dends-2Dwith-2Dno-2Djail-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=vn8ulPwww3k3F8or01UXirmt1KIu5e1XIKITH_2wzx4&e=>)

The former controller at Dewey & LeBoeuf LLP saw the end to what his attorney called a "long and arduous siege" on Friday when he was sentenced to 100 hours of community service after cooperating in the prosecution of his ex-colleagues for more than three years. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986527\\_-2Dlong-2Dsiege-2Dfor-2Dex-2Ddewey-2Dcontroller-2Dends-2Dwith-2Dno-2Djail-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=uws5inu1IA\\_Wjp8k03LG2hdyLk9WECJRZdKCXIM-dk&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986527_-2Dlong-2Dsiege-2Dfor-2Dex-2Ddewey-2Dcontroller-2Dends-2Dwith-2Dno-2Djail-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=uws5inu1IA_Wjp8k03LG2hdyLk9WECJRZdKCXIM-dk&e=>)

Fla. Judicial Panel Offers Sens. 4 Names For District Seat<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986528\\_fla-2Djudicial-2Dpanel-2Doffers-2Dsens-2D4-2Dnames-2Dfor-2Ddistrict-2Dseat-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=cPLC5UsX050\\_x3m7zIGAjYKy33ikYue0EwtI3AdhMS8&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986528_fla-2Djudicial-2Dpanel-2Doffers-2Dsens-2D4-2Dnames-2Dfor-2Ddistrict-2Dseat-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=cPLC5UsX050_x3m7zIGAjYKy33ikYue0EwtI3AdhMS8&e=>)

The commission tasked with screening candidates for federal judgeships in Florida sent four names — two trial court judges and two appellate judges — to the state's U.S. senators for a vacancy in the Northern District of Florida. Read more >><[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_environmental\\_articles\\_986528\\_fla-2Djudicial-2Dpanel-2Doffers-2Dsens-2D4-2Dnames-2Dfor-2Ddistrict-2Dseat-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=HMLquGjY5RkZLhmw7L1i072j5g3ddXowyaYdfFFIn4w&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_environmental_articles_986528_fla-2Djudicial-2Dpanel-2Doffers-2Dsens-2D4-2Dnames-2Dfor-2Ddistrict-2Dseat-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=HMLquGjY5RkZLhmw7L1i072j5g3ddXowyaYdfFFIn4w&e=>)

GC Cheat Sheet: The Hottest Corporate News Of The Week<[The U.S. Supreme Court turned away four notable employment cases, a study found more legal departments are looking to grow their outside counsel spending next year, and Kraft Heinz Co.'s GC told Law360 about the changing food industry. These are some of the top stories in corporate legal news you may have missed last week. Read more »<\[#### Podcast\]\(https://urldefense.proofpoint.com/v2/url?u=https-3A\_\_www.law360.com\_environmental\_articles\_986466\_gc-2Dcheat-2Dsheets-2Dthe-2Dhottest-2Dcorporate-2Dnews-2Dof-2Dthe-2Dweek-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWbONl616a3TyjNj450&s=d88YtR8uK8BqBcofrWa0FOVYj56j8eQLFD1zIfoERE&e=></a></p>
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Law360's Pro Say: GOP Goes To War With ABA Over Judges<[On the latest episode of Law360's Pro Say podcast, the team discusses the escalating war of words between Republicans and the American Bar Association over how judicial nominees are vetted. We also tackle a BigLaw attorney in hot water after her comments about sexual harassment on Fox News, the Menendez corruption trial ending in a hung jury, and some unusual facts about one of President Donald Trump's judicial picks. Read more »<\[#### In Case You Missed It: Hottest Firms And Stories On\]\(https://urldefense.proofpoint.com/v2/url?u=https-3A\_\_www.law360.com\_environmental\_articles\_986391\_law360-2Ds-2Dpro-2Dsay-2Dgop-2Dgoes-2Dto-2Dwar-2Dwith-2Daba-2Dover-2Djudges-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWbONl616a3TyjNj450&s=VtPDePr7BvZ8\_k-1p1nmGFInIxxYHqs4WkoIw5IRGYM&e=></a></p>
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Law360<[For those who missed out, here's a look back at the law firms, stories and expert analyses that generated the most buzz on Law360 last week. Read more »<\[#### Series\]\(https://urldefense.proofpoint.com/v2/url?u=https-3A\_\_www.law360.com\_environmental\_articles\_967648\_in-2Dcase-2Dyou-2Dmissd-2Dit-2Dhottest-2Dfirms-2Dand-2Dstories-2Don-2Dlaw360-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWbONl616a3TyjNj450&s=V5vgbUyFnnIqUjR3LEPUxL61nF6hGxre8hHypW3jCDY&e=></a></p>
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My Strangest Day In Court: Arguing From The Gallery<[Appellate lawyers are usually silent observers at trial who collaborate on legal strategy, conduct research during court breaks, and craft jury instructions, verdict forms and major motions. But as I discovered in one trial, this is not always the case, says M.C. Sungaila of Haynes and Boone LLP. Read more »<\[#### JOBS\]\(https://urldefense.proofpoint.com/v2/url?u=https-3A\_\_www.law360.com\_environmental\_articles\_982781\_my-2Dstrangest-2Dday-2Din-2Dcourt-2Darguing-2Dfrom-2Dthe-2Dgallery-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental-26read-5Fmore-3D1&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWbONl616a3TyjNj450&s=yTQy\_nEqQDnYomK7W42gLxtioOG3TyWeL3WLe1t7Qx4&e=></a></p>
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Resolution Economics LLC<https://urldefense.proofpoint.com/v2/url?u=https-3A\_\_www.law360.com\_companies\_resolution-2Deconomics-2Dl1c-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-

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## GOVERNMENT AGENCIES

Army Corps of Engineers<[Bureau of Indian Affairs<\[Bureau of Reclamation<\\[Committee on Foreign Investment in the United States<\\\[Energy Information Administration<\\\\[Equal Employment Opportunity Commission<\\\\\[Federal Energy Regulatory Commission<\\\\\\[Judicial Conference of the United States<\\\\\\\[NAFTA<\\\\\\\\[National Labor Relations Board<\\\\\\\\\[National Security Agency<\\\\\\\\\\[New York Attorney General's Office<\\\\\\\\\\\[Oak Ridge National Laboratory<\\\\\\\\\\\\[!\\\\\\\\\\\\\[\\\\\\\\\\\\\]\\\\\\\\\\\\\(b072bf4265d9233e96e6b7ec2dd456ef\\\\\\\\\\\\\_img.jpg\\\\\\\\\\\\\)\\\\\\\\\\\\]\\\\\\\\\\\\(https://urldefense.proofpoint.com/v2/url?u=https-3A\\\\\\\\\\\\_\\\\\\\\\\\\_www.law360.com\\\\\\\\\\\\_agencies\\\\\\\\\\\\_oak-2Dridge-2Dnational-2Dlaboratory-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\\\\\\\\\\\_XQ&m=hDj-S97sqhHdY7t94bLIIl16gWboNl616a3TyjNj450&s=Zkd3kf9EkMUwyzaRSeBojrmh8ItoT4DdRbqMNa1X64&e=></a></p>
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Deutsche Bank AG<https://urldefense.proofpoint.com/v2/url?u=https-3A\_\_www.law360.com\_companies\_deutsche-2Dbank-2Dag-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\_XQ&m=hDj-S97sqhHdY7t94bLII116gWboN1616a3TyjNj450&s=RchArvthN60B\_tc\_BYnXvCon510-swF\_PP2CksGWT3Q&e=>

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International Brotherhood of Teamsters<[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.law360.com\\_companies\\_international-2Dbrotherhood-2Dof-2Dteamsters-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX\\_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=F86QEgtwsuINcPMtgTZpfwj\\_-nfrY86v8sJhu4-xygs&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.law360.com_companies_international-2Dbrotherhood-2Dof-2Dteamsters-3Fn1-5Fpk-3D66b640af-2D391e-2D4963-2Dbedd-2D7c40ef1cc2bd-26utm-5Fsource-3Dnewsletter-26utm-5Fmedium-3Demail-26utm-5Fcampaign-3Denvironmental&d=DwMCAQ&c=R1m5WhGmPER8srpDE4r86Q&r=Ho493NDIkNhZrs-CIPX_XQ&m=hDj-S97sqhHdY7t94bLI1l6gWboNl616a3TyjNj450&s=F86QEgtwsuINcPMtgTZpfwj_-nfrY86v8sJhu4-xygs&e=>)

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## Message

**From:** Wheeler, Andrew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=17A1669EF5B54FBA8CB457845308787E-WHEELER, AN]  
**Sent:** 8/22/2018 12:09:39 PM  
**To:** Jahan Wilcox **Personal Email / Ex. 6**  
**Subject:** Re: Nice interview!

thank you and good luck in your new endeavors. Happy to sign the certificate for you. If you pick it up in person please stop by and say hello.

**From:** Jahan Wilcox **Personal Email / Ex. 6**  
**Sent:** Tuesday, August 21, 2018 4:15 PM  
**To:** Wheeler, Andrew  
**Subject:** Nice interview!

Administrator Wheeler - hope you are doing well. This is a great interview!

**Ex. 6**

**Ex. 6**

Also Kaitlyn said I have a certificated signed by you -  
 - thank you very much as I will put that into a frame.

Have a great day.

Jahan Wilcox

**Personal Phone / Ex. 6**

----- Forwarded message -----

**From:** RNC War Room <Warroom@gop.com>  
**Date:** Tue, Aug 21, 2018 at 4:03 PM  
**Subject:** Countdown to the Closing Bell (FBN) – Acting EPA Administrator Andrew Wheeler Interview  
**To:**

**Countdown to the Closing Bell (FBN) – Acting EPA Administrator Andrew Wheeler Interview**

[http://mms.tveyes.com/transcript.asp?StationID=2025&DateTime=8/21/2018%203:04:30%20PM&playclip=true&pbcs=search%3a%2b\(the\)](http://mms.tveyes.com/transcript.asp?StationID=2025&DateTime=8/21/2018%203:04:30%20PM&playclip=true&pbcs=search%3a%2b(the))

LIZ CLAMAN: we bring in the man behind the administration's affordable clean energy rule, acting epa chief andrew wheeler. thank you for being here.

ACTING EPA ADMINISTRATOR ANDREW WHEELER: thank you for having me.

CLAMAN: president trump widely telegraphed this but give us a snapshot of what's driving the affordable clean energy rule.

ACTING ADMINISTRATOR WHEELER: as you know, president trump last year asked us to take a look at the obama administration's proposal overhaul it and take a look at it. what we did was the obama administration's proposal was challenged by 27 states. what we are doing is taking a look at the authorities given to us by congress and the clean air act,

and we're moving forward with a new proposal that will provide lower cost electricity for all american consumers and will also reduce co2 at the same time.

CLAMAN: as i understand it, as i look at the talking points from the administration, it sounds like it will be left up to the states to decide, but some already are. within the last couple of hours, as we just mentioned, new york state says it will file a lawsuit on behalf of a consortium of states and counties, which kind of is reminiscent of the 1970s when new york state filed a suit against utility plants in ohio and indiana for emissions that drifted eastward and caused acid rain. how are you planning to deal with what looks like a court fight already?

ACTING ADMINISTRATOR WHEELER: well, i would certainly hope that new york would take a look at the proposal first before filing suit. but you know, 27 states challenged the obama proposal and it was stayed by the supreme court. so the obama proposal actually never even took effect. what we're doing is moving forward in a measured approach to reduce co2 in the long term and provide cheaper electricity for all americans. the obama administration, obama epa was really engaged in social engineering which is not the role of the u.s. epa.

CLAMAN: as a business network, we watched intrusive regulations diminish businesses and that obama era rule it was very aggressive, and some say it so fast-tracked the timetable to eliminate coal-fired plants there could be a risk of widespread blackouts but in the coal world, it is a free market that's diminished the use of coal. natural gas is plentiful and cleaner, less expensive and that is simply a fact. why go backwards here?

ACTING ADMINISTRATOR WHEELER: well, we're not going backwards. we are letting the free market pick. what we're not doing is we're not picking the winners and losers. the obama epa picked winners and losers among the different energy sources. they were projected to have 30% of the coal plants close under their proposal. what we're doing is leaving it to the states and working more cooperatively with the states. they know what the energy mix is that each of them need. new york should not dictate what ohio or pennsylvania or west virginia need for their energy production, and certainly the u.s. epa should not dictate to the states what they need for their energy production. we need to work more cooperatively with the states which is what president trump's proposal does today.

CLAMAN: that's the economic part, because as i say, natural gas, \$2.97 per thermal unit but coal is \$40 per ton. to the environmental part of it, the talking points we got from the white house this morning said the rule, quote, the a.c.e. rule will ensure the u.s. remains the world's gold standard for energy production and environmental protection. but also within this, the administration's own proposal included analysis that might be worrisome to, i don't know, anybody who breathes. 48,000 new cases of exacerbated asthma. we can put this up on the screen. also, in the administration's analysis, they said the potential of at least 21,000 new missed days of school annually by 2030 because those pollutants would increase the atmosphere rather than decrease. also, this was unbelievable. between 470 and 1400 premature deaths annually by 2030 because of increased rates of microscopic airborne particulate. some are asking, where is the protection part of the environmental protection agency here?

ACTING ADMINISTRATOR WHEELER: sure. first of all, this regulation and the obama regulations were just designed to address co2. we already have on the books a number of different regulations to address particulate matter, so2. all those are still on the books. two weeks ago we announced that the air today is 73% cleaner than it was in the 1970s. all the regulations that got us to the 73% cleaner are still in effect and will still be in effect tomorrow and next year. this announcement today is just for energy efficiency for the utility sector. this does not go to the underlying environmental protection regulations that are already on the books and will remain on the books.

CLAMAN: glad you brought up the utilities. we have a lot of utility ceos who come on here and even the utilities in those 27 states that you referenced that sued to block president obama's clean power plants say there is a point of no return. they have told us they mostly already met the obama era regulations. reuters did a study of 32 utilities in those 27 states and the bulk of them said they have no plans to alter their multi billion dollar shift away from coal. so why not take the approach that we saw president trump and his daughter ivanka take recently when they held this jobs event of tomorrow event. it was really kind of exciting. they said they were going to go for the modern jobs. training coal miners to work in nuclear power which is better and is the most carbon-free way to produce power. solar and wind isn't as reliable but at least it's modern.

ACTING ADMINISTRATOR WHEELER: we encourage the private sector to go further than the regulations all the time. but you have to remember that the obama proposal was stayed by the supreme court so it never took effect. what we needed to do was put a regulation in effect that will follow the law. epa doesn't get to write the laws. our congress writes the laws. we are following the clean air act, following the four corners of the clean air act, to put forward a legal proposal that will withstand court challenges and that will provide certainty for all the states and certainty for all the consumers across the country.

CLAMAN: you understand, i don't know about you, i have two kids, i have watched california institute very tough regulations and i used to grow up looking at smog and couldn't see the santa monica mountains. now i see all the mountains. we want clean air and clean water. can you promise for as long as you're in charge that that is what you will fight for?

ACTING ADMINISTRATOR WHEELER: absolutely. when president trump called me and asked me to be the acting administrator, he asked me to keep cleaning up the air, keep cleaning up the water and continue to deregulate to provide more jobs for the american public. he knows we can do all three. i know we can do all three. and we can do all three at the same time.

CLAMAN: your predecessor, scott pruitt, out under a cloud of real issues. what kind of changes will you implement? how will you change the way you, at least as acting administrator of the epa, run this and how are you improving morale which was really low when he was there?

ACTING ADMINISTRATOR WHEELER: i have had a number of all hands meetings. i have traveled to five of our regional office. i was just in our chicago office yesterday. i was in our michigan lab on friday. i'm traveling to our denver office in the next couple of weeks. i'm getting out and talking to all the epa staff and all of our offices. i'm reassuring them that we are moving forward, we are protecting the environment and public health, which is the mission of the agency. i started my career as a career employee at the epa, and i think the career employees at the agency really respect that.

CLAMAN: i know you are also a former lobbyist of the coal industry so you got a tightwire here. we are watching it. we have your promise. i hope you will keep it. thank you for coming on.

ACTING ADMINISTRATOR WHEELER: thank you.

CLAMAN: andrew wheeler, current administrator of the epa.

Disclaimer: The Republican National Committee provided the above article as a service to its employees and other selected individuals. Any opinions expressed therein are those of the article's author and do not necessarily reflect the views and opinions of the RNC.

## Message

**From:** Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]  
**Sent:** 11/27/2018 5:49:46 PM  
**To:** Grant Kidwell [gkidwell@alec.org]  
**Subject:** RE: Speaking at upcoming ALEC meeting  
**Attachments:** ClintWoods8x10.jpg

Grant,

Bio below:

Clint Woods serves as the Deputy Assistant Administrator in U.S. EPA's Office of Air and Radiation. Prior to joining EPA in December 2017, Clint was the Executive Director of the Association of Air Pollution Control Agencies (AAPCA), a non-profit organization of state and local air quality agencies located in Lexington, Kentucky. While with AAPCA, he was also a member of U.S. EPA's National Advisory Council on Environmental Policy and Technology. Clint previously served in positions with the Committee on Science, Space, and Technology in the U.S. House of Representatives, the American Legislative Exchange Council, and the Recreation Vehicle Industry Association. He holds an MA in international commerce and policy from George Mason University and a BA from the University of Mary Washington.

Clint Woods  
 Deputy Assistant Administrator  
 Office of Air and Radiation, U.S. EPA  
 202.564.6562

---

**From:** Grant Kidwell [mailto:gkidwell@alec.org]  
**Sent:** Monday, November 26, 2018 1:47 PM  
**To:** Woods, Clint <woods.clint@epa.gov>  
**Cc:** DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Rakosnik, Delaney <rakosnik.delaney@epa.gov>  
**Subject:** RE: Speaking at upcoming ALEC meeting

Clint,

Is there a biography and head shot that you would like included in the printed agenda?

-Grant

---

**From:** Grant Kidwell  
**Sent:** Wednesday, November 21, 2018 12:48 PM  
**To:** Woods, Clint <woods.clint@epa.gov>  
**Cc:** DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Rakosnik, Delaney <rakosnik.delaney@epa.gov>  
**Subject:** RE: Speaking at upcoming ALEC meeting

Clint,

Thanks again for your willingness to speak to the task force and making the time. In terms of logistics, the ALEC conference is taking place at Friday November 30<sup>th</sup> at the Grand Hyatt Washington on 1000 H St NW Washington, DC 20001. Your speaking time is at 2:35 to 3:00 and I would recommend about 15-minutes of prepared remarks and 5-10 minutes for questions. The room the EEA task force is meeting in is Constitution C/D/E which is on the level 3B of the hotel. You enter the hotel on the main level and go down to the conference level. 3B is three levels below the main

level. When you enter the hotel, look for the signs pointing to registration table and they will have a speaker's badge for you and then they will be able to direct you to the EEA task force room.

If you have any questions, prior to the meeting or the day of my cell phone is Personal Phone / Ex. 6

What: Speaking at ALEC EEA Task Force

Date and Time: Friday November 30<sup>th</sup>

Location: Washington Grand Hyatt 1000 H St NW Washington, DC 20001

Room: Constitution C/D/E

---

**From:** Woods, Clint <[woods.clint@epa.gov](mailto:woods.clint@epa.gov)>

**Sent:** Sunday, November 18, 2018 3:10 PM

**To:** Grant Kidwell <[gkidwell@alec.org](mailto:gkidwell@alec.org)>

**Cc:** DeLuca, Isabel <[DeLuca.Isabel@epa.gov](mailto:DeLuca.Isabel@epa.gov)>; Rakosnik, Delaney <[rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)>

**Subject:** RE: Speaking at upcoming ALEC meeting

Grant,

Thanks again for reaching out -- Think I can make the afternoon of the 30<sup>th</sup> work (although I'll only be able to participate for that portion of the task force meeting). Isabel and Delaney may be in touch on any related logistics.

Clint Woods

Deputy Assistant Administrator

Office of Air and Radiation, U.S. EPA

202.564.6562

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**From:** Woods, Clint

**Sent:** Thursday, November 15, 2018 5:10 PM

**To:** Grant Kidwell <[gkidwell@alec.org](mailto:gkidwell@alec.org)>

**Subject:** Re: Speaking at upcoming ALEC meeting

Grant,

Thanks so much for the invite! Let me run a couple traps and hopefully get back to you tomorrow.

Clint

On Nov 15, 2018, at 3:06 PM, Grant Kidwell <[gkidwell@alec.org](mailto:gkidwell@alec.org)> wrote:

Dear Clint,

We meet briefly a couple months ago when you spoke in Salt Lake City. I am reaching out to see if you would be interested in speaking at the upcoming ALEC meeting in DC. The EEA task force meets on Friday November 30<sup>th</sup> at the Grand Hyatt Washington on 1000 H St NW Washington, DC 20001. We are looking for a speaker who could give an update to the task force on the state of the ACE rule as well as other actions coming from the Office of Air and Radiation. The presentation could be similar to the one you did in Salt Lake City. If you are interested, the task force would be excited to have a former director come speak. The time slot would be at 2:30 to 3:00 pm on Friday Nov and I usually tell speakers to have about 15-20 minutes of presentation and then allow for 5 minutes of questions. Let me know if you are interested and feel free to give me a call if you have any questions.

Sincerely,

Grant Kidwell  
Task Force Director  
Energy, Environment, and Agriculture  
202 669 9910

Upcoming Meetings:

2018 States & Nation Policy Summit – November 28-30, 2018 – Washington, D.C.

*The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.*

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## Message

**From:** Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]  
**Sent:** 8/21/2018 1:53:50 PM  
**To:** Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]  
**BCC:** mkeogh@4cleanair.org; kpoole@ecos.org; jsloan@csg.org  
**Subject:** FW: \*\*\*STAKEHOLDER CALL ALERT\*\*\*

All,

In addition to the more detailed call planned for states at 3:30 Eastern today (logistics at the bottom of this email), I also wanted to flag a less detailed stakeholder call scheduled for 1:00 PM. Your members are welcome to join either, and the proposal details are available [here](#). Thanks!

Clint Woods  
 Deputy Assistant Administrator  
 Office of Air and Radiation, U.S. EPA  
 202.564.6562

**Date:** August 21, 2018 at 7:05:26 AM  
**Subject:** Fwd: \*\*\*STAKEHOLDER CALL ALERT\*\*\*

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WASHINGTON (August 21, 2018) — Today, August 21, 2018, at 1:00 P.M. EDT, U.S. Environmental Protection Agency (EPA) Assistant Administrator for the Office of Air and Radiation, Bill Wehrum will host a stakeholder briefing via phone

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## Message

**From:** Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]  
**Sent:** 9/19/2018 11:00:14 PM  
**To:** Brydon Ross [BRoss@hbwresources.com]  
**CC:** Shane Waller [SWaller@hbwresources.com]; Michael Zehr [MZehr@hbwresources.com]  
**Subject:** Re: Invitation to Speak at CEA Quarterly Meeting Wed Sept. 26th

Thanks again for the invite - I think I should be able to participate at 2:00 on the 26th.

On Sep 19, 2018, at 2:10 PM, Brydon Ross <[BRoss@hbwresources.com](mailto:BRoss@hbwresources.com)> wrote:

Clint,  
 Thanks very much for giving this a look, and I hope you may can make it next week. We have a lot of folks back in KY that would be interested in dialing in. Keep things locked down in DC!

Best,  
 Brydon

---

**From:** Michael Zehr  
**Sent:** Tuesday, September 18, 2018 3:35 PM  
**To:** Woods, Clint <[woods.clint@epa.gov](mailto:woods.clint@epa.gov)>  
**Cc:** Shane Waller <[SWaller@hbwresources.com](mailto:SWaller@hbwresources.com)>; Brydon Ross <[BRoss@hbwresources.com](mailto:BRoss@hbwresources.com)>  
**Subject:** Invitation to Speak at CEA Quarterly Meeting Wed Sept. 26th

Clint,  
 We represent Consumer Energy Alliance ([www.consumerenergyalliance.org](http://www.consumerenergyalliance.org)), a nationwide nonprofit organization that supports energy policies benefiting families, small businesses and energy consumers. We will be holding the organization's quarterly meeting at our office at 1666 K Street, NW, Suite 500 from 2:00 PM to 3:15 PM on Wednesday, September 26<sup>th</sup>.

CEA's affiliates include a diverse group of energy consumers and energy producers who are all very interested in the work EPA is doing on the Affordable Clean Energy rule, and we were hoping you would consider joining us to give us an update on the rule and plans moving forward. We hope you would speak for 10-15 minutes and allow for 5 to 10 minutes of Q&A. Our quarterly meetings are limited to our affiliates and partner organizations, and we usually have between 20-30 people in attendance. We would love to have you join us if possible.

Please let me know if you need anything additional on our end.

Thanks,  
 Michael Zehr  
 Tel: 202-210-6647

## Message

**From:** Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]  
**Sent:** 10/30/2018 2:54:39 PM  
**To:** Paul Bailey [pbailey@americaspower.org]  
**Subject:** RE: ACCCE Board mtg Nov 14

Personal Phone / Ex. 6 -- Thanks!

**From:** Paul Bailey [mailto:pbailey@americaspower.org]  
**Sent:** Tuesday, October 30, 2018 7:12 AM  
**To:** Woods, Clint <woods.clint@epa.gov>  
**Subject:** RE: ACCCE Board mtg Nov 14

Excellent. I'll call you this am. What's your phone #?

**Paul Bailey**  
 4601 N. Fairfax Drive, Suite 1050 • Arlington, VA 22203  
 T: 202.459.4818 | M: Personal Phone / Ex. 6  
[pbailey@americaspower.org](mailto:pbailey@americaspower.org)

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**From:** Woods, Clint <woods.clint@epa.gov>  
**Sent:** Tuesday, October 30, 2018 5:16 AM  
**To:** Paul Bailey <pbailey@americaspower.org>  
**Subject:** Re: ACCCE Board mtg Nov 14

Paul,

If you still need me, I will be available at 9:15 on the 14th and very interested in participating. Happy to talk more about logistics or content. Thanks!

Clint

On Oct 23, 2018, at 1:35 PM, Paul Bailey <pbailey@americaspower.org> wrote:

Fingers crossed. Thx.

Sent from my iPhone

On Oct 23, 2018, at 1:32 PM, Woods, Clint <woods.clint@epa.gov> wrote:

Paul,

Thanks so much for the invite! There may be a conflict with a public hearing that I may need to attend that day, but let me know double check and get back to you early next week.

Clint

On Oct 23, 2018, at 1:11 PM, Paul Bailey <[pbailey@americaspower.org](mailto:pbailey@americaspower.org)> wrote:

Clint –

Hope all is well. We'd like to invite you participate on a panel at our Board meeting about the proposed ACE rule. I'm also reaching out to Bill Brownell and Peter Glaser. We have the panel slotted for 9:15 – 10:00 at Venable. I can follow up with more details if you're available. Thanks and we hope you can make it.  
Paul

**Paul Bailey**

4601 N. Fairfax Drive, Suite 1050 • Arlington, VA 22203

T: 202.459.4818 | M: Personal Phone / Ex. 6

[pbailey@americaspower.org](mailto:pbailey@americaspower.org)

<image003.png>

## Message

**From:** Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]  
**Sent:** 8/24/2018 4:27:56 PM  
**To:** Kevin Sunday [ksunday@pachamber.org]  
**Subject:** Re: PA Chamber: New EPA Rule a Welcome Change Compared to Clean Power Plan

Thanks!!

On Aug 24, 2018, at 11:34 AM, Kevin Sunday <[ksunday@pachamber.org](mailto:ksunday@pachamber.org)> wrote:

Good morning Clint and Happy Friday.

FYI

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**FOR IMMEDIATE RELEASE**  
**August 24, 2018**

### **PA Chamber: New EPA Rule a Welcome Change Compared to Clean Power Plan**

**Harrisburg** – Pennsylvania Chamber of Business and Industry President and CEO Gene Barr issued the following statement following the release of the U.S. Environmental Protection Agency’s proposed Affordable Clean Energy rule. The proposal was authored by the Trump administration to replace the Obama Administration’s Clean Power Plan.

“In drafting this new rule, we commend the EPA for taking into consideration the numerous concerns that were raised about the Clean Power Plan. When it was first unveiled, the PA Chamber warned that the increased costs associated with the Clean Power Plan would jeopardize the Commonwealth’s position as an energy leader and were the lead named party in an amicus brief, cosigned by 166 other chambers and manufacturing groups, to the Supreme Court urging for the rule to be overturned. The rule was clearly defective, as the Supreme Court issued a nationwide suspension of the rule.

“Having long exhibited global leadership in the coal, gas, nuclear and renewables sectors, Pennsylvania has shown that a free and competitive energy market can deliver emissions reductions when individuals and businesses are free to choose which energy source best fits their needs – and the federal government is not picking winners and losers. The Clean Power Plan was overly aggressive and far-reaching and would not have resulted in any meaningful reduction of global carbon emissions.

“The Affordable Clean Energy rule gives states greater flexibility in determining how to comply with the performance standards outlined in the rule and how best to reduce emissions. It also

affords more flexibility to companies complying with the Clean Air Act's New Source Review requirements, which have stifled innovation at manufacturing facilities. We welcome the EPA's shift to an approach that recognizes the unique energy landscapes within each state. Pennsylvania's diverse energy portfolio— has led to lower energy costs for the Commonwealth's consumers and plays a significant role in the country's overall energy independence. We look forward to reviewing the proposed Affordable Clean Energy rule in greater detail and determining how it will impact the state overall."

# # #

*The **Pennsylvania Chamber of Business and Industry** is the state's largest broad-based business association, with its statewide membership comprising businesses of all sizes and across all industry sectors. The PA Chamber is The Statewide Voice of Business™.*

**KEVIN SUNDAY**

Director, Government Affairs

Ph: 717 720-5443 | Mobile: 717 645-2071

<image004.png>

The Statewide Voice of Business™

417 Walnut Street | Harrisburg, PA 17101

Message

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**From:** Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]  
**Sent:** 1/30/2019 7:53:24 PM  
**To:** Paul Bailey [pbailey@americaspower.org]  
**Subject:** Re: NARUC Feb 12

Paul,

Thanks so much! Unfortunately, I'll be in Houston on the 12th, but I'm checking on availability for rest of the team (I believe Bill may be doing a sideline bfast thing for NARUC that morning, so he might be able to stick around for the panel).

Clint

On Jan 30, 2019, at 10:27 AM, Paul Bailey <pbailey@americaspower.org> wrote:

Clint –

NARUC is holding a panel discussion on the ACE rule. I've agreed to be on the panel, and I've been asked to invite someone from EPA to also serve as a panelist. I'm not sure if they intend to invite other panelists. Would you be available and interested? The panel is scheduled for 10:45 – 11:45. I can provide more color if that would be helpful.

Thanks,  
Paul

**Paul Bailey**

4601 N. Fairfax Drive, Suite 1050 • Arlington, VA 22203

T: 202.459.4818 | M: 703.586.2422

[pbailey@americaspower.org](mailto:pbailey@americaspower.org)

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